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SUPPLY COMMITTEE — 1

ESTIMATES, MINISTRY OF
NATURAL RESOURCES

OFFICIAL REPORT — DAILY EDITION

Third Session of the 30th Parliament

Thursday, October 28, 1976

Afternoon Session

Speaker: Honourable Russell Daniel Rowe

Clerk: Roderick Lewis, QC

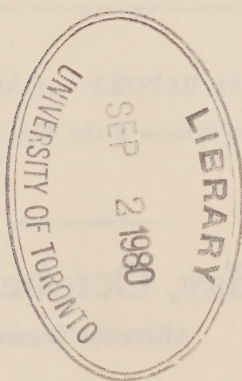
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CONTENTS

A list of the speakers taking part in the debates in this issue of Hansard appears, in alphabetical order, at the back of this issue.

Daily contents of proceedings also appears at the back of this issue. Reference to a cumulative index of previous issues can be obtained by calling the Hansard Reporting Service indexing staff. (Phone 965-2159)



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LEGISLATURE OF ONTARIO

SUPPLY COMMITTEE

THURSDAY, OCTOBER 28, 1976

The committee met at 4:05 p.m. in committee room No. 1.

ESTIMATES, MINISTRY OF NATURAL RESOURCES (continued)

On vote 2302, land management program; item 1, water control and engineering:

Mr. Vice-Chairman: We now have a quorum. I believe when we adjourned last night Mr. McClellan had the floor. Would you like to carry on?

Mr. McClellan: I have a couple of questions that I wanted to raise with the minister about water control as it affects wild rice development in northwestern Ontario.

Firstly, I understand the dam at Whitedog Lake, repairs for which were promised by Mr. Herridge on May 20, 1976, has been completed but I'd like a verification that the work on the dam at Whitedog has been completed.

Hon. Mr. Bernier: As I understand it, we agreed to provide some engineering assistance from my ministry but the actual work, and Mr. Herridge might want to correct me on this, was to be undertaken by the federal authorities.

Mr. McClellan: Right. Did you obtain the Armco gates so that the work could proceed?

Hon. Mr. Bernier: This is up to the federal authorities.

Mr. McClellan: No, it's not, with respect, Mr. Minister. At the meeting of May 20, Mr. Herridge stated that Armco gates would be available in two or three months if ordered now and indicated that MNR would provide assistance in the ordering of the material. What I want to know is did you do that or not?

Hon. Mr. Bernier: I'll ask Mr. Herridge to reply. Mr. Herridge is the assistant deputy minister.

Mr. Herridge: Mr. Chairman and Mr. Minister, at the May 20 meeting, there was an understanding between us and Indian Affairs that we would provide the engineering expertise in the specifying of the gates and other equipment required to repair the dam. We would make this available and federal Indian Affairs would take on the responsibility for seeing that the gates were ordered and for paying for the gates. Ours was simply the provisioning of the engineering advice and specifications on the equipment required and that was done.

Mr. McClellan: I would still like to know if anyone here knows whether the gates were ordered and the gates were acquired and the dam was repaired. Is that such a hard question to answer?

Mr. Panting: They were ordered.

Mr. McClellan: There were 15 civil servants at the meeting. Surely somebody has enough interest to follow that up and find out?

Hon. Mr. Bernier: With all due respect, I think we have to accept the fact that this was a federal responsibility. We were there. We were accepting our responsibility.

Mr. McClellan: I don't believe this.

Hon. Mr. Bernier: Wait a minute. Wait until I'm finished. We offered the assistance to the band but normally it's a federal responsibility because the area was on federal government reserves. Okay?

Mr. McClellan: Is that my answer?

Mr. Panting: They have been ordered.

Hon. Mr. Bernier: The gates have been ordered.

Mr. McClellan: Can I get a sense of what stage the work is in? I'm not prepared to accept the copout. Let me make that very clear. The Ontario government has a responsibility, maybe jointly, but it still has a responsibility and it's not going to wash with

anybody any more to give us that constitutional copout. All I want is some straight information.

Hon. Mr. Bernier: I think the word "responsibility", with all due respect, should be clarified.

Mr. McClellan: Let me finish. May I finish my question? I want to know what state the work that was committed by a number of ministries jointly, provincially and federally, is in with respect to an economic activity that is pretty important in that part of the country.

Hon. Mr. Bernier: We can get that information for you and have it for you within the next day or two.

Mr. McClellan: I would have thought you might have had it since it was such an issue so recently in the spring.

Hon. Mr. Bernier: Well, there's a lot going on up there in northern Ontario—

Mr. McClellan: Let me go on.

Hon. Mr. Bernier: —and if you go up there once in a while, you'll see how large the area is and how many projects we are involved in. It's difficult to be on a day-to-day basis with all the projects.

Mr. McClellan: Mr. Chairman, I don't need any patronizing comments from the minister. I worked in northern Ontario. I lived in northern Ontario. I worked with native people for many years. I know the north very well.

Hon. Mr. Bernier: With some of the comments you're making, I have doubts.

Mr. McClellan: Thank you very much.

Mr. Lane: I'm glad you went south. We don't need you up there now.

Mr. Wildman: The electorate might decide they don't need a lot of people up north.

Mr. McClellan: If I may continue, Mr. Chairman—

Mr. Chairman: Since there is no further discussion—

Mr. McClellan: Well, Mr. Chairman, if I may continue, I said—

Mr. Chairman: Then let's continue with the item.

Mr. McClellan: Thank you. Since I asked the minister earlier in the year to give us some assurances that Hydro flooding would not affect the wild rice crop in the Grassy Narrows-Whitedog area, and the minister indicated he certainly would be on top of the deliberations of the Lake of the Woods Control Board, I would like to know what action has been taken.

Hon. Mr. Bernier: We have a member on the Lake of the Woods Control Board; Mr. Panting, I believe, is that member. He can give us an up-to-date report as to the discussions that went on as they related to the flooding of that particular area and wild rice crops.

Mr. Panting: Mr. Chairman, the Lake of the Woods Control Board couldn't really give any guarantee that flooding would not take place on the Winnipeg River. The reason that statement is made is because the Lake of the Woods Control Board has legislation, and a convention and protocol, which really establishes the regulation procedures, the objects of the board and its activities. Hence, it is quite often faced with releasing substantial amounts of water from Lake of the Woods. Under those circumstances, flooding quite likely would occur on the Winnipeg River.

Hon. Mr. Bernier: If I may just ask Mr. Panting to clarify further, we made a request to the Lake of the Woods Control Board that they appeal to Hydro to refrain from sudden fluctuations of the water levels at the specific period of time when the wild rice harvest was at its crucial growing point. Has this been considered and has there been any reaction to that?

Mr. Panting: Mr. Minister, that would depend, I suppose, on the manner of operation of the Whitedog generating station downstream on the Winnipeg River. It was my understanding that Ontario Hydro had issued instructions to the plant operators to be very careful about those quick fluctuations and discharges which would cause downstream flooding. I believe that has been effected.

Mr. McClellan: Thank you, sir. Just by way of preface, as I recall, the 1974 and 1975 wild rice crops in that area were ruined, I believe, as a result of these kinds of sudden fluctuations and that represented something in the area of a \$1-million crop loss. I understand there was a good harvest this year but I'd like some verification of that from some of your ministry staff or yourself.

Hon. Mr. Bernier: Mr. Chairman, I can speak to it to some degree, having lived in there and having taken a real interest in the wild rice crops and the further development of wild rice. We did have a very dry season; there was little water around in many of the sloughs, and some of the bays were actually dry where the wild rice normally grows. The crop was excellent. There is no question; it was an excellent crop. However, there were some violent wind storms at a very crucial time and they destroyed a large quantity of the crop. In addition to that, we have an estimate that it is unlikely that 10 per cent of the harvestable crop was actually harvested.

[4:15]

Mr. McClellan: What explanation do you have for that?

Hon. Mr. Bernier: Many of the licensed areas, particularly in the Kenora area, are with the native peoples and had to be harvested in a short period of time. The absence or the lack of pickers is the main problem.

Mr. Foulds: Could I pursue that for a moment? Do they have the right, under the licences, to sublet those licences?

Hon. Mr. Bernier: I believe there are nine or 10 areas in the Lake of the Woods area. They're given to a band and the chief of the band council usually gives permission to people within his band to fish. They're exclusively native rights.

We also give land use permits to areas outside the traditional harvesting areas of the native people where an individual like you, who wishes to cultivate wild rice, can plant his own seeds and do his own harvesting. There are actually two specific areas.

Mr. Foulds: Was any of your ministry's staff available for consultation and advice in the crucial harvesting period, in order to assist the band to get other personnel to help pick the crop, if such was not available in the band itself?

Hon. Mr. Bernier: We have never got involved to that degree, that depth, with the native people. They have their traditional ways of harvesting. I would have to say to you, with a great deal of pride, that they're more experienced than we are, really, when it comes to harvesting wild rice. I think they could tell us more than we could tell them except when it comes to mechanical pickers. There seems to be a tendency to want to go in that particular direction although there

is a desire, of course, to maintain those traditional harvesting areas where they can harvest in the traditional way.

There are other factors that go with harvesting wild rice, as you well know. It's not just harvesting rice; there's a way of life that goes with it which they want to maintain.

Mr. Foulds: Can we talk a bit about the mechanical pickers and whether or not you've made any progress in developing the kind of picker which will not upset the ecology of the area which, I gather, a couple of years ago was a serious consideration?

Hon. Mr. Bernier: There were some wild rice pickers that were developed which actually cut the wild rice; actually cut the stalks off. We discouraged that right off the bat because it actually ruined the crop for next year.

The type that's developed now is mainly with the assistance of an aircraft motor. It's a large wind-driven operation, 30 or 40 feet in width, which actually moves through the wild rice fields and the kernels drop off in a canvas basket in the front so that there's sufficient—it even falls outside the basket—for next year's seeding. It works very well. I was out in one field and took some pictures and I'll make sure you get a copy of them because they're very—

Mr. Foulds: Are those being used in north-western Ontario now?

Hon. Mr. Bernier: Yes, they are. I believe our ministry does have one or two—didn't somebody tell me we have them in Kenora? We use it in the fields. I think there are one or two which we have in our own ministry which we use for picking up seed, and a number of private operators have developed their own wild rice picking machines.

Mr. Foulds: But the band, at the present time, does not have one to the best of your knowledge?

Hon. Mr. Bernier: There may be one in the Rainy River area. I believe it has one, to my knowledge.

Mr. Foulds: But the particular—

Hon. Mr. Bernier: The Kenora ones? No, they still use canoes. That is still the big factor.

Mr. McClellan: I don't think I have any more questions, Mr. Chairman, but I want to go back again to that point which the

minister raised about this being a federal responsibility.

Let me remind you, Mr. Chairman, that what the minister is talking about is an attempt to salvage something, economically, from the communities which were destroyed by the pollution from the Reed Paper Company. For him to sit here again today and say that this is a federal responsibility—after all that's happened, after all the disgrace that was brought to light last spring—is simply intolerable. I would have hoped that we had at least gone beyond the stage of you trying to pass the buck for the task of helping these people to put their lives back in order; that you would have stopped trying to pass the buck on that. And it is obvious that apparently you haven't. I think that's really pathetic. I hope that when we get to other items in these estimates which will deal in more detail with some of the follow-up to that May 20 meeting that you'll show a little more indication of some acceptance of responsibility.

Hon. Mr. Bernier: Mr. Chairman, I know those comments are not worthy of further comment and I'll not comment on them, except to say that all repairs have been completed. Some minor sodding is being done at the present time. That is a report I just received from my staff.

Mr. Chairman: Mr. Wildman, did you wish to comment on this item?

Mr. Wildman: On this item, but not that particular topic if you don't mind.

Mr. Chairman: Does item 1 carry?

Mr. Laughren: No.

Mr. Wildman: No, Mr. Chairman, I am willing to go on 2302-1. I want to speak on something, but it's a different topic, if that is fine. I am concerned with flood control in rivers in northern Ontario, and in my riding specifically. One problem that a lot of people have had in unorganized communities in my area is that there always seems to be some kind of disagreement, constitutional or whatever, between the provincial ministry and the federal government, as to who is responsible for clearing debris at the mouths of rivers which produces flooding on a regular basis year after year. Neither level of government seems to want to take the responsibility. I could point to a number of situations, but perhaps in my area the worst is the Goulais River in the Sault Ste. Marie district. Year after year—

Hon. Mr. Bernier: The name of the river is?

Mr. Wildman: Goulais.

Hon. Mr. Bernier: I just want to get the name right.

Mr. Wildman: There are other rivers, of course, in the area; in the Blind River district there are a number of areas as well, but I want to talk specifically about this one.

Now, it is my understanding that under The Lakes and Rivers Improvement Act, the ministry has some responsibility for preventing flooding when it is considered a potential danger or potentially doing damage to other areas. In most areas the local conservation authority is involved, but in an unorganized community you don't have that situation. I would like to know if The Lakes and Rivers Improvement Act applies in this case, and if it does then what the ministry intends to do, because this is a long-standing problem. It has been going on for years and years and years.

The people in the area have been wanting to get something done and, as I say, one level of government is always saying, well, it is the other one, and neither one does anything. The federal ministry has made some noises about clearing one of the branches at the mouth but it claims it is not really responsible, it's just willing to do it because of the goodness of their hearts. But they are not sure when they are going to do it; whenever they can get the money and they are not sure when they are going to get the money. So I'd like to know if The Lakes and Rivers Improvement Act applies here, and if it does, why haven't you done anything before this?

Mr. Panting: Mr. Minister, as I understand the question, it's whether The Lakes and Rivers Improvement Act really applies to the clearing of an obstruction in a stream, in this particular case in the Goulais River. If it's a natural obstruction, there is a section of The Lakes and Rivers Improvement Act that could be utilized in clearing the obstruction. If it lies within a conservation authority area I'd be very much inclined to suggest that the matter be placed before the conservation authority, because it might lie within their purview, within their mandate.

Mr. Wildman: Mr. Chairman, as far as my information is concerned, it is a natural obstruction. It is the silt and debris that is carried down every year with the spring runoff. That has produced over the years a large

buildup at the mouth, and there is no conservation authority. It is an unorganized area. There is no municipal authority or conservation authority that has jurisdiction as far as I know.

Mr. Panting: In an unorganized territory the ministry really doesn't have a programme for dredging for water control of the nature that you mentioned. This is a natural event, and I would expect that we would look on it as a natural event.

Mr. Wildman: A spring runoff is pretty natural, it occurs every year.

Mr. Makarchuk: It is also an event.

Mr. Wildman: Am I to understand then that because it is an unorganized area and there is no conservation authority, these people—a very large number of people; it's a substantial community, not in terms of southern Ontario but in terms of the communities in my riding—can't be assisted? A lot of people live along the river and they face flooding every year, year after year. It gets worse every year because more debris is carried down every year. The federal government says it is not its responsibility because it is not a navigable stream. There are people who debate that, because at one time it was navigable but it isn't any more. Is there nothing that can be done at all? Are these people, just because they live in an unorganized area, going to be told once again there is nothing that can be done?

Mr. Haggerty: They have built in a hazardous area.

Mr. Wildman: They were given permission by MNR to build in that area.

Mr. Haggerty: All across southern Ontario too. All along the shores of Lake Erie.

Hon. Mr. Bernier: I am wondering if we couldn't get a report from the district. I would like to have a look at the problem and get some idea of the cost and the necessity for the cleanup and we could report back to you.

Mr. Wildman: I'd appreciate that. I have talked to the district manager and he has been quite co-operative. When I made him aware of the Act—I am not sure that he wasn't aware, but I don't think he was aware of the provision, because as you say there is no particular programme carried out by the ministry in unorganized areas—he said he would look into it and check back with me. I imagine he is looking into it, so if

you can liaise with him that might help the area, because this has been a long-standing problem and one that needs correcting.

Hon. Mr. Bernier: Are we talking about a sandbar or just debris? Because if it's just debris—

Mr. Wildman: Both.

Hon. Mr. Bernier: Both, I see. Because in some instances our junior ranger force in Experience '76 has been used to clear up debris, as long as it's not too heavy.

Mr. Wildman: No, it's both.

Hon. Mr. Bernier: I see.

Mr. Wildman: It's silt built up. It's a meandering stream, and it's a lot of silt.

Hon. Mr. Bernier: We'll get a full report and I'll correspond with you personally.

Mr. Haggerty: Mr. Chairman, I want to follow along those lines of water control and engineering, particularly as it relates to the Lake Erie basin, where over the years the high level of water in Lake Erie has caused considerable erosion problems along the shores. I know that the Niagara region official plan has indicated that along the lakeshore it should be classed as a hazardous area. There was a report by the government, a study and report back in 1952, that indicated the government should be bringing in regulations or controls along the shoreline, particularly to persons wanting to build along the lakeshore. In a number of cases they will level a sandhill down and then build upon the site and later on they are faced with difficulties of erosion of the sandbank, and in some cases houses have been severely damaged.

There is an article here from the Federation of Ontario Naturalists on policies and programmes raised during discussion, February 13, 1976. This is what the Ministry of Natural Resources has said, quoting from page 12:

[4:30]

Flood plain policies: The protection of flood plains and valley lands is important for three reasons: to protect people, habitations and property from flooding; to protect wildlife both from direct effects and from the whole chain of development which follows construction, and to improve and protect water quality.

The inadequacy of the present and recent past can be seen almost anywhere in

the province. Horror story after horror story appears on almost every watershed, as valley lands are filled to permit construction and as flood-prone buildings continue to be erected.

The Conservation Authorities Act is itself a major contributor to this problem. Though the Act confers broad powers upon the authorities, it places no duty upon an authority to protect these features. Moreover, amendments to the Act in 1973 strongly favour those who would destroy valleys and unwisely build upon hazardous lands. First, the Act makes it more difficult and expensive to refuse permission than to grant permission to fill or build. Secondly, anyone refused permission by a strong authority can appeal. But no decision by a weak authority to grant permission can be appealed.

This matter has repeatedly been raised by the federation. It was discussed by the deputy minister in the spring of 1974, an FON resolution was passed in 1974 and the matter was raised in a brief to the resources development policy field in February, 1975.

The federation believes that the ministry should act to prevent, almost totally, building or filling areas subject to the so-called regional design storm. In particular, we believe that the government should either appeal the problematical amendments of 1973 or at least balance them so that they are not favouring the would-be destroyer.

Hon. Mr. Bernier: As I get it, if I could clarify it in my own mind, you're saying that there aren't tight enough controls by the conservation authority with regard to flood plains regulations?

Mr. Haggerty: That's what they are saying. If you look at some official plans of a municipality, particularly the Niagara regional municipality, they set up what I guess you could call a kind of state planning or state sites. That means that you can build along, for example, the Welland River, and it's in a flood plain area. They encourage that type of building. In other areas, too, it is usually on some water course. They want the scenic beauty of the flowing waters, but then there are problems created later. It may even be problems created by septic tanks being used along some stream. That is the best place to put it so that the outflow heads toward that stream.

I question some of the planners' views in some of these matters. In particular, I think this is what the Federation of Ontario Nat-

uralists is trying to bring to your attention, that they are encouraging this type of development.

I happened to travel the Grand River around the village of Cayuga up into Brantford. It is a beautiful sight to see that river there. It is perhaps one of the places that still remains where they don't have a number of cottages or homes built along it. I am suggesting that there should be some type of control so that you don't build along these riverbanks and create these problems later on, where the people are coming back asking the government to assist them in some programme to rebuild their homes. I think they can be classed as hazardous areas and a person who builds upon that particular site should accept the responsibility if damage occurs to a home or it's flooded out.

Hon. Mr. Bernier: If I may comment, and we will likely get into this in greater detail when we come to the conservation authorities vote, most of the arguments I am getting are just completely opposite to yours. I think of many members, maybe not on this committee, who are constantly after me and badgering me about the tight regulations of the landfill regulations of the conservation authority, and more and more of them are being passed under The Conservation Authorities Act. If anything, I am getting complaints about the tight control, and sometimes the dictatorial control, that the conservation authority has in stopping some of these developments from moving ahead on hazardous lands. So what that has prompted us to do is to have a complete review of the criteria used in setting up the landfill regulations as it relates to the flooding, such as going back to the 25-year flood, the 50-year flood, and going back to the 100-year flood.

Mr. Haggerty: Sometimes they even go back as far as 100 years.

Hon. Mr. Bernier: That's right.

Mr. Haggerty: There's just as much chance with that as with Wintario. What is it, 10 in one million, or something like that?

Mr. Reed: Mr. Chairman, I wonder if I might speak to this subject, if you wouldn't mind?

I understand, and am very much aware of, the kind of pressure that your ministry must be subjected to regarding the controls that are imposed by the conservation authorities. I'm particularly personally concerned because I live in a river valley and I know all about the regulations that are imposed.

I would suggest to the minister and to the ministry that the objection, really, when one boils it down, is not against the regulations about filling and doing things which anybody with any common sense knows are just unreasonable. I think the objection has arisen from an authoritarian stance that has perhaps been taken in some instances, and that would be better removed and a spirit of co-operation injected with the property owners in those valleys.

Hon. Mr. Bernier: That message has come through. Maybe I should ask you to talk to the member for Huron-Bruce (Mr. Gaunt) about some of the landfill regulations in his area, because he's constantly in contact with myself and members of my staff.

Mr. Haggerty: I believe he raised it last year in the estimates.

Hon. Mr. Bernier: Yes, he did.

That report, I believe, should be in our hands and ready for publication by the end of this year.

Mr. Haggerty: I think if people want to build in those particular sites, the hazard is there and they shouldn't be able to come back to the government after four or five years and say "Bail me out. There may be severe flooding in the area."

Mr. Reed: I think most reasonable people understand that, too.

Mr. Haggerty: If they want to continue to live under those circumstances, then I don't think that they should come back and ask the government to come in with financial systems to bail them out.

Hon. Mr. Bernier: It just boils down to how much insurance can we actually afford?

Mr. Haggerty: Well, that's right.

Hon. Mr. Bernier: How much protection can we actually afford? We can't stop the world because there may be a flood someday, that's the whole thing. There was one time.

Mr. Haggerty: Is this the place, Mr. Chairman, to discuss waterlots?

Hon. Mr. Bernier: What's that?

Mr. Haggerty: Is this the area that we can discuss water control, I suppose, waterlots?

Hon. Mr. Bernier: Yes. Yes, sure. Or we can get to it down there in "land, water and mineral title administration." But if you

want to bring it up here, if it's on your mind—

Mr. Haggerty: I don't know if I'm in order or not. Maybe I can wait to bring it into that particular area.

Hon. Mr. Bernier: Okay. I think it'd be better if you waited, then we could keep in order.

Mr. Ferrier: As far as water levels and control are concerned, there's a spot in the Mattagami River along Riverside Drive in Timmins, and I believe the council and the conservation authority have had some discussion as to whether that water level that you have there is proper or not. I think there is a number of residents in a certain section who are boxed in and they can't add on anything to their houses or make any improvements. Even the federal member's construction firm went ahead and built a part on to its offices and had to tear it down after they went to court and the council stood behind them.

Do you know what discussions have taken place as to the actual water level on that Mattagami River and whether there's any reconsideration being given? Those people who are there are sort of under this kind of no-development order, no-add-on order. Is any further consideration being given to that, or that will be given, or is it sort of hard and fast and nothing is likely to happen?

Hon. Mr. Bernier: Is that in the conservation authority area or in Crown?

Mr. Ferrier: It's in the conservation authority area. Maybe I'm on the wrong vote, but I thought—

Mr. Peacock: Mr. Chairman, Mr. Minister, I was up to Timmins and looked at some of the area in the valley of Mattagami just a few weeks ago and they've moved some houses out of there as well, a year or so ago under a project.

Mr. Ferrier: That was another area.

Mr. Peacock: This is another area, is it? This is further downstream?

Mr. Ferrier: Further west.

Mr. Peacock: Yes.

Mr. Ferrier: Still just off Highway 101.

Mr. Peacock: It is one area that might be helped by a review of the criteria. It's a possibility that there might be some change

there. Certainly the lines have been established under the old criteria and are in effect now and in regulation.

Mr. Ferrier: Do you know if there's any review contemplated?

Mr. Peacock: Following the release of the report, yes.

Mr. Ferrier: Okay, that's all I have.

Mr. Makarchuk: Mr. Chairman, I have a few matters and again they are related to my favourite river, the Grand, of course, that you fellows are always cleaning up, and you haven't succeeded. What I want to know, to get back to the matter of dikes, flood control and so on, is specifically the Brantford situation at this time.

As the minister may or may not be aware, there is some dispute as to location of dikes, particularly in the area they call Eagle Place, which is the southern part of Brantford. There are two or three alternate sites for dikes, but one of the problems in the area is that if the dikes are located in a certain area, there are certain residents along what is known as Birkett's Lane and it certainly will be between the dike and the river. In other words, they will not be protected.

No decision has been made, really. There are some suggestions as to where the dikes go, and I think the Grand River Conservation Authority is favouring the dikes being placed north of Birkett's Lane. What I want to know at this time is, who will make the final decision as to the location of the dikes—which department of your ministry, or which authority or who—

Mr. Haggerty: Mac, are you having difficulty getting that 60-foot yacht up the Grand River?

Mr. Makarchuk: We've got all sorts of problems. But who would have the authority as to the location of the dikes? Who will make the final decision at this time?

Hon. Mr. Bernier: That would be the conservation authority's engineering branch.

Mr. Peacock: Mr. Chairman, Mr. Minister, I would say the authority itself, based on the best engineering input it can get from both its own engineers and ours.

Mr. Makarchuk: In other words, what you are saying in this case is that it is the responsibility of the Grand River Conservation Authority to decide the location of those dikes in Brantford. I presume you are aware of the area in contention.

Mr. Peacock: I am not really knowledgeable on it.

Mr. Makarchuk: All right, but the decision is not with the Brantford city council, it's not with the ministry, it's with the Grand River Conservation Authority.

Mr. Peacock: I would say so.

Mr. Makarchuk: Okay, that is the first question. The second question is, is there any decision at this time in terms of funding for the dikes for channel improvements in the Brantford area, and as well as other places on the Grand? What restrictions are placed on those funds at the moment? Is there an adequate amount of funds available through the ministry for the various agencies, particularly the Grand River Conservation Authority, which will initiate the project, I presume, with the co-operation and assistance of city council? Can they go ahead with these projects in a reasonable length of time, or a reasonable period of time?

Mr. Williams: Mr. Chairman, I think we are on the wrong vote, aren't we?

Hon. Mr. Bernier: Yes.

Mr. Makarchuk: No, I am sorry, we are dealing with flood control, water control.

Mr. Wildman: We are talking about the jurisdiction of the conservation authority, Mr. Chairman.

An hon. member: Who is running this show?

Mr. Williams: Mr. Chairman, everybody is talking over you.

Mr. Bain: If you would be quiet—

Mr. Williams: See, there you go, somebody is interrupting again. Get control of the situation.

Hon. Mr. Bernier: In view of the fact that the gentleman has asked a question and Mr. Peacock is there, maybe we could let this question go and tighten up after.

Mr. Makarchuk: Yes, Mr. Chairman, you have brought in hazardous areas and so on, which is another area that was opened up that really doesn't fall under this. But water control and engineering—and this is what we are discussing—unfortunately or fortunately relates to other authorities or agencies in the area. But we are dealing with water control right now, for Mr. Williams' benefit. What I want to know is, what is the department's priority in terms of funding for

these projects and is the funding available at this time, because despite whatever the Grand River Conservation Authority says, the decision is eventually made here in Queen's Park. They more or less go along with your decisions, and of course they are tied to you again on that basis. They would, I am sure, like to go ahead as soon as possible, but they have to get the 60 or 66 per cent funding which comes from the provincial government.

Hon. Mr. Bernier: Let me just review how the process really works. The conservation authority sets its own priorities and its programme on—is it a five-year basis? We asked them for five years at one time, but I don't know how it is working out. We asked them to submit to us some long-development plans, and of course those are updated and resubmitted each year. These are gone over very carefully by the branch, which in turn looks at the priorities established by the local conservation authority and then tries to match the funds accordingly to spread them around the whole province because we have 38 authorities to deal with.

[4:45]

It may well be that this project would go ahead this year and other projects that are a priority may have to wait until funds become available. I can tell you we have a long list of funds that have a priority with the conservation authorities and with ourselves, but we only have a limited amount of money to deal with them. I think this year we have \$28 million that has to be divided up.

Mr. Makarchuk: Mr. Minister, I am aware of the fact that you have to allocate these things in various places. But you are aware there was a severe flood about two years ago which caused about \$10 million damage. In terms of, and in relation to the costs of channel improvements and dikes, which probably is estimated at about \$2 million, it is a small price to pay for the protection that could be available there.

I just want to stress very strongly here that you have to look at it very seriously because we are moving, or will be moving, into a runoff situation later on in the fall and in the spring. The same situation that occurred in 1974, I think can happen once again. At this time we will have almost identical problems with a possible exception in Cambridge where you have managed to move some of the commercial area out of the land adjacent to the river.

First, I wish to stress that you should be considering this; second, I think you should indicate to the authorities what funding is available and, if necessary, expand the fundings on the basis of the fact that it is a dollar well spent.

Hon. Mr. Bernier: If I may just comment on that particular point, we do advise the conservation authorities late in the year or early in the new year as to what their administrative grant will be and what their capital grants are. Very recently I directed a personal letter to each chairman of each conservation authority asking them to review their priorities as they related to water control and water management, because I strongly feel that in these periods of restraint and tight budgets that our emphasis and our priorities should be in the direction to which you are referring. I am asking that they slack off on the recreational aspect—move away from that and get back to water management and water control and look after the erosion problems. That has been received fairly well.

Mr. Makarchuk: Right. I would just like to elicit from you some indication of how you feel about the proposals coming from the municipalities in the southern part of the Grand regarding—and I am sure they will be supported by Brantford and other municipalities—the development of possible navigation on the river; in other words, to restore it to what it used to be once upon a time. When the Indians were in charge they didn't screw it up as much as we have. I wonder whether your ministry would look with favour on the proposals that are submitted or suggested. Certainly funding is involved in this case.

There is a highway bridge that is contemplated in Caledonia. Perhaps your ministry could consider making some representations to the Ministry of Transportation and Communications in terms that when the bridge is built, consideration be given to a design that would perhaps eventually permit the development of locks and so on.

Hon. Mr. Bernier: Sure, we are prepared to look at that proposal and those suggestions, I think, are excellent.

Mr. Makarchuk: In other words, you are favourably disposed to that—

Hon. Mr. Bernier: Yes, I think we would like to have a good look at it, really. I was concerned, I thought you might be talking about the Elora Gorge.

Mr. Makarchuk: We will get to that eventually—the Elora Gorge. It was touched on in other areas, about hazardous areas and flooding and construction in hazardous areas. Here I am slightly off topic, but the fact is it was allowed earlier, so perhaps I will exercise the same options.

One of the problems we find is not so much new building going up in flood plain areas where the people, if they put a building up, will sign a clause with the local authority—a hold blameless agreement which is registered against the title. What bothers these people, and I think justifiably so, is the fact that if they put an addition to a home or something—not necessarily another room, it could be a garage or a lean-to—they have to sign a hold blameless clause for the whole residence. I just cannot see the justification for this at this time. I could see them signing a hold blameless clause for a portion of the residence or the newly built portion, but in heaven's name, why should they have to jeopardize the rest of the structure or the rest of the building if they have to improve it or add on to it? Could you give me the rationale for that?

Mr. Peacock: I am not really that familiar with that hold blameless clause, but I presume that it is merely applied to the houses that are within the hazard area.

Mr. Makarchuk: Yes, it does.

Mr. Peacock: The house in the first place is in a hazardous location.

Mr. Makarchuk: I'll agree, I can see the reason in the case of a new residence or a new building; the man knows it is in a hazardous area, it may be subject to flooding and therefore he is taking a risk and he should not expect somebody to bail him out afterwards when he is flooded out or the property is damaged.

But what I find difficult to understand is if an individual, again, as I said, puts an addition on to the building, before he can go ahead and construct, or get a building permit, he has to enter into an agreement with the Grand River Conservation Authority to have the whole building—the new as well as the existing structure—put into a hold blameless clause. I just cannot see the reason for that. I have tried to discover the justification for it; I don't know the justification.

It seems to me rather silly that you can have two houses side by side and if a man puts a lean-to on a house then if his house gets flooded there is no way he can claim

any damages, whereas if his neighbour's house is flooded because he hasn't built on it or hasn't improved it, he can claim for compensation.

What is the reason for this?

Hon. Mr. Bernier: Mr. Smith, our legal adviser, is here; I wonder does he have any comment on that? It seems to me a legal eagle—

Mr. M. S. Smith: Mr. Chairman, Mr. Minister, of course, I can't speak for the Grand River Conservation Authority or their lawyers but probably it is just their hope of cleaning up the situation, to bring to the attention of any one who might acquire that property subsequently that that situation exists.

The other point is that the hold blameless clause, I would think, is not the complete answer in any case because the question of whether or not there is negligence on the part of the authority in the flood situation would count. That would be a very rare situation.

What I'm really getting at is that even those houses that are not covered by such a hold blameless clause would not have—usually—a very good claim against the authority in any case. I was at that flood inquiry and I think His Honour Judge Leach made the point at that time that he thought it would be helpful if people moving into the area—and this is one of the real problems—that people who had lived in the area would know about the flooding but that newcomers moving into these areas would not.

I think it is probably—and I can't speak for them—just an attempt to have something on title so that newcomers would be made aware of the flooding situation, not so much of their possible legal claims against that particular authority.

Mr. Makarchuk: I can understand the fact that it is not going to resolve the problem and I can understand that perhaps new people coming in should be aware that they are moving into a flood plain, but what I can't understand is this discrimination against people who try to improve their property.

Mr. M. S. Smith: What you are saying basically is it would make more sense, if a man is putting on a shed, to have the conservation authority held blameless for the shed addition rather than the whole thing.

Mr. Makarchuk: For the shed only. If that's the case, if the man is adding on or you're trying to restrict construction and growth

and so one, it is understandable, but then just tie him down to that part of the building that is put up since the flooding, so that he is aware of it. But this is a sort of discrimination against some people.

Those who do not improve their building or are not putting on anything new or are not adding to it can possibly get compensation some time in the future as they did in the last flood, whereas the individual who has put on a lean-to, a shed, now is totally out of the picture; he has to take the lumps by himself.

I would suggest, Mr. Minister, that this be thrown out or else some sense brought into this thing. If you are going to have that hold blameless clause in existence then at least just apply it to that portion of the building that will be injured. I admit sometimes there may be a bit of a problem sorting out how much damage was done in the new portion of the building and how much in the old portion, but I would sooner have it that way—that we have to sort this out—than to have this kind of a situation that exists right now. I will be following this and I will be sitting on your back to see that it is sorted out.

Mr. M. S. Smith: We could ask the conservation authority to justify that. One point I'd make, if I may, with regard to compensation during that flood is that I don't think that hold blameless clause played any part at all; and the second point is that those who received compensation did not, to the best of my knowledge—as yet, certainly, because there are some cases before the courts—receive compensation from the conservation authority as you are aware—

Mr. Makarchuk: Right. I'm aware of the situation.

Mr. M. S. Smith:—and there was to my knowledge, an organization that had signed a hold blameless clause and to my best belief did in fact receive compensation from the flood emergency fund.

Mr. Makarchuk: That hold blameless clause came into effect after the flood—

Mr. M. S. Smith: That one had signed it before.

Mr. Makarchuk: That's right, and the way it appears now is that just in case there is a flood and in case there is a collection of money and some provincial contribution that the people who have not done anything to their buildings may get some compensation, whereas these people are totally out of the picture.

Mr. M. S. Smith: Excuse me, sir, but they did. That particular organization did collect—

Mr. Makarchuk: Oh, I agree. Absolutely.

Mr. M. S. Smith:—even though it had already signed such an undertaking.

Mr. Makarchuk: No, at that time, there was nobody who had any hold blameless clause in—

Mr. M. S. Smith: I think this one did.

Mr. Makarchuk: Well, it is the first that I have heard of it that they did. But there was no discrimination made as to who got compensation. It was paid out to everybody, more or less on the basis of the damage and the funds available.

Mr. M. S. Smith: On an equitable basis. Right.

Mr. Makarchuk: But the way it stands now is that in case there is a recurrence of a similar incident, then these people will be cut out.

Mr. M. S. Smith: Well, sir, depending on who would be providing the funds. In other words, in an action against the conservation authority that clause may have some defence value, but I don't think it would if it was used in a general funding situation. For instance, if there was an emergency fund I don't think the emergency fund could particularly use what would amount to an undertaking with the authority in its own defence.

Mr. Makarchuk: Yes, I don't think anybody in Brantford anyway took action against the conservation authority, but there may have been one or two incidents in Paris, I think, but the understanding now is that if there is an emergency fund, if there is that kind of compensation, these people will not be eligible for it because they have tried to improve their property or add on to it and that is a silly reason to cut them out.

Hon. Mr. Bernier: We will have a good look at that.

Mr. Makarchuk: Would you, please?

Hon. Mr. Bernier: Yes, we will.

Mr. Williams: Mr. Chairman, I would like to question Mr. Smith, if I might. It is my understanding that in those arrangements—where it's flood plain as designated by the conservation authority—while those buildings that have existed before the flood plain was defined by the conservation authority, of course, are entitled to stay on, property can—

not be improved without this type of provision. Because certainly there is no encouragement by the conservation authority to permit further residential development within the community.

Mr. M. S. Smith: I can't speak for the authorities but from what I learned at that flood I think they are very much against any kind of building, industrial or residential. I think they want people out of that area.

Mr. Williams: It is my recollection with regard to the Metro Toronto Conservation Authority, for instance, that homes that were there before flood plain lines were delineated on the maps they were not moved out but allowed to continue to occupy existing buildings—that was one thing. But if, in fact, they were endeavouring to build or expand existing living quarters, then in order to be permitted to do that—it is contradictory to the whole purpose of the flood plain concept which is to prevent people from living in this hazardous environment and so would have to, as a condition of improving the property, enter into this type of legal contractual situation with regard to the save harmless clause. Is that not correct?

Mr. M. S. Smith: Well, as the minister said, if you like we can attempt to obtain from the authorities who are using the clauses perhaps even their legal opinion as to how binding they are and under what circumstances. They may not be binding in a negligent situation if the authority was, in fact, negligent in handling the water. I am not sure of your question, sir.

Mr. Williams: Let me put it this way. Is the situation not similar to the one where you have non-conforming uses—

Mr. M. S. Smith: That's right.

Mr. Williams:—a building is exempt and subsequently a municipality may enact a zoning bylaw that makes the building non-conforming. But so long as they are continued to be used for that purpose and are not expanded or built upon, then they are a legal non-conforming use and in effect, this is what we have here. Is that not the case?

Mr. M. S. Smith: I believe that to be the case.

Mr. Williams: That is really what I am getting at, I guess.

Mr. Vice-Chairman: Okay, I think I must apologize for being too lenient. I think this

afternoon the action we had in the House must have disturbed me.

Mr. Bain: It was unsettling, wasn't it?

Hon. Mr. Bernier: I thought we were going to have another shot at that issue.

[5:00]

Mr. Vice-Chairman: We are concentrating on item 1. Since we have already finished item 8, we won't have to talk about it later. Let's finish item 1; I have Reed, Laughren and Eakins to speak. Is there anyone else who wants to speak?

Mr. Germa: Mr. Chairman, are you saying we can't talk about conservation authorities when it comes?

Mr. Vice-Chairman: No, I am just kidding. Okay, Reed, Laughren and Eakins. Anybody else? All right, Mr. Reed.

Mr. Reed: Mr. Chairman, I would like to make a couple of comments about the business of water control in southern Ontario. There was some mention made about flood plain lines a few minutes ago and we talked about the input that the minister had had, objections to the tight controls and so on in the valleys.

I would suggest, Mr. Minister, that your ministry probably suffers from the same disease that all ministries do when they get to be quite large and a large bureaucracy builds. That is, the communications break down.

What I have discovered is that policies which we hear of in the field are not necessarily the policies of the minister. This has been a cause of a good deal of concern on my part. There is the construction of what I would term as little kingdoms within the ministry which undertake to implement programmes and policies without due regard for the kind of effect they have on the people, particularly in southern Ontario where we have things like—

Hon. Mr. Bernier: That doesn't happen in Natural Resources.

Mr. Reed: It sure does—particularly where we have things like private property ownership. As a couple of examples— and I want to make you aware of this kind of thing—let's start with the business of navigable waterways and non-navigable waterways. As you are probably aware there is quite a difference in the legal ramifications of navigability yet in some areas of southern Ontario your own ministry officials are not even aware as to

whether certain rivers are navigable or non-navigable.

We have also experienced the introduction of certain programmes, particularly on the Credit River which runs through my riding. The sport fishing programme which has been introduced has had absolutely no consideration for the private property owner whatsoever. I asked that question of the sport fishing people—if they had given any consideration to the private property owner—and the answer was no. The programme was simply proceeded with.

What these programmes tend to do is create a response, of course, among the general public which tends sometimes to create a monster. I think I would like to make you aware of that problem.

Hon. Mr. Bernier: I appreciate your concerns.

Mr. Reed: One of the other areas is the ministry's own respect for the ownership of private property. Out on the firing line, somehow, some of your staff take an entirely different view of private property from yours, I am sure, considering your political affiliation and I have even been told by elements of your ministry that they would introduce legislation to change the ownership of property which is held privately along waterways. I would be pleased to give you the names of the staff concerned.

Hon. Mr. Bernier: They are not discussing that with me, I can tell you that.

Mr. Reed: Regarding the flood plain lines, I know how some of the resistance has been encountered. It has been encountered through perhaps overcautious engineering in determining what actually is a flood plain and what isn't, and perhaps the lack of flexibility on the part of conservation authorities to look at the reasonableness of certain of these lines. I know it's probably much easier simply to implement a blanket policy and to carry on, come hell or high water. Just as an example, I would like you to know that the flood plain in the Credit River, as it passes through my property, goes through the second floor of my house, and yet I have never had water in my basement.

Mr. Makarchuk: Stick around.

Hon. Mr. Bernier: A little water in your basement won't drive you out, will it?

Mr. Reed: There are conflicting responses in the field. In terms of water control in

southern Ontario, you're dealing with a lot of people. We're in high-density areas down here; we have certain limitations with the ownership of property and one thing and another. My plea to your ministry is to begin to co-operate rather than simply to be an intimidating authority.

Hon. Mr. Bernier: I wonder if I could ask Ken Irizawa, the executive director of the fish and wildlife division, to comment on your remarks.

Mr. Irizawa: The only comment I have, sir, is that where problems have occurred—for example, an extensive stretch of the Credit River, I believe from the QE to Britannia Road at Streetsville, has been declared a sanctuary, which means no one may fish there—

Mr. Reed: Okay, but let me reply by asking you, if you are prepared to declare sanctuaries, as you could in the case of the mile that goes through my property, what's the point of the sport fishing programme?

Mr. Irizawa: I think it's a balance between the opportunities presented by sport fishing and the tradeoff between that and whether there are complaints of littering, property damage and so forth.

Mr. Reed: But, of course, you know that the vast bulk of that river passes through private property, and the vast bulk of that river is non-navigable? Now, the point—are you questioning the navigability?

Mr. Irizawa: Yes.

Mr. Reed: Okay. From Dundas Street up it's non-navigable, ruled so in the early 1900s—and I have the documents to support that. I only say to you, if we are prepared to make the river into a sanctuary, that does put some severe limitations on the goals of the sport fishing programme. That's really all I can say in response.

Hon. Mr. Bernier: Thank you.

Mr. Vice-Chairman: Mr. Laughren?

Mr. Laughren: I thought we were going to do the conservation authorities at the same time, so I'll pass.

Mr. Vice-Chairman: Mr. Eakins, did you want to speak on water control?

Mr. Eakins: I just wanted to ask the minister, how do you define and determine your responsibilities in regard to the waterways? I'm thinking of the Kawartha Lakes, particu-

larly Pigeon Lake, where we've had some problems with the floating bog or the floating islands. I wonder, what do you determine as your responsibility in that? Since it's on the Trent waterway system and you have the Ministry of the Environment, it seemed very difficult to determine whose responsibility it was or whether it was the local people who would have to accept the responsibility. When the water was particularly high in the spring, this bog would break loose and you would have a mirage of floating islands all over the lake. I'm just wondering how you would determine your responsibility in this regard.

Hon. Mr. Bernier: Mr. Giles, I think, could clarify that responsibility.

Mr. Giles: Mr. Chairman, Mr. Minister, the Kawartha system is part of the Trent Canal and therefore is the responsibility of the federal government, through the Trent Canal office of Parks Canada. We're aware of this problem, but it's not an easy one to solve either—

Mr. Eakins: I was just wondering what part Natural Resources would play in this?

Mr. Giles: I don't think we play any direct part in that particular problem other than to be consulted maybe. If we had any good ideas we would pass them along, but it would really be their responsibility.

Mr. Eakins: The only other thing I would add is that in my involvement with your people in the area, I have had tremendous co-operation and I just want to add that. Through the Lindsay and Minden offices the co-operation has been excellent, there is good dialogue and we appreciate it very much.

Hon. Mr. Bernier: I appreciate your comments.

Item 1 agreed to.

Mr. Foulds: Do I understand correctly that this is the vote under which one would discuss firefighting and spruce bud worm control and that kind of thing?

Hon. Mr. Bernier: Yes, we can do it here. Yes.

Mr. Vice-Chairman: Items 2 and 4?

Mr. Foulds: Item 4 is extra firefighting and perhaps we should do them both together.

Hon. Mr. Bernier: Sure, let's do both. That's a good idea.

Mr. Foulds: Because item 2 does take in the basic firefighting programme.

Hon. Mr. Bernier: Right, 2 and 4.

Mr. Vice-Chairman: Is the committee agreeable then that we do 2 and 4 together?

Agreed.

On item 2, forest protection, and item 4, extra firefighting:

Mr. Foulds: I have had some correspondence, Mr. Minister, on the question of firefighting over the past season. I wonder if I could start by asking the minister or one of the officials to indicate very briefly the philosophy that the ministry has with regard to firefighting. I would like to break that down into four categories—in terms of preventive actions; in terms of defensive actions; in terms of offensive actions; and in terms of promoting the wise use of fire.

Hon. Mr. Bernier: Bill Cleaveley or Len Sleeman maybe—Bill, will you handle this one? It is on four areas—preventive, defensive, offensive and the wise use.

Mr. Foulds: Maybe I can help by giving a couple of thoughts at the beginning. Whenever we hear of enormous forest fires, the whole problem that we faced the past summer, I think we naturally react with some fear, as people do, to fire. Yet one got the impression over the past summer that although all the human resources were working like hell to put the fires out, there is in fact very little that one can do about forest fires once they start.

Hon. Mr. Bernier: Oh, no. I don't accept that.

Mr. Foulds: Well, that's the kind of thing that I want to get clarified, and maybe that's as good a point as any to lead in.

Mr. Cleaveley: Mr. Chairman, Mr. Minister. Certainly it is our philosophy in terms of action on fires to suppress any wild fire that occurs. As you probably are well aware, we have resources available across the province for this purpose. We have our crews and our equipment standing by to take action on any fire that occurs.

While we are geared to fight fire under normal situations—we are geared up to fight in normal conditions 2,000 fires a year and so on—there are times when our resources can be extended somewhat beyond that. We, of course, take other action when that occurs—that is bringing in assistance from other provinces and so on.

I think we have to say that there is an area in the province, certainly north of, say, the 52nd parallel, where we limit our suppression activity; this is what we call our extensive fire suppression area. Below that, we take action on any and all fires that occur, to the best of our ability. This is on the basis of our capacity to detect those fires at a small acreage and provide a suppression action that will put those fires into a controlled state at the earliest possible time. Our policy or philosophy is to attempt to do that in the first burning period and that is within 24 hours of the fire being located.

[5:15]

You probably know that our resources are very mobile and when fires occur in any part of the province we have the capacity to move that equipment and move those resources around very quickly. You may have some fires which we don't take too much action on at any given time purely on the basis of priorities that are set depending entirely on how we are operating elsewhere in the province or elsewhere in that area. We do set priorities. There are fires which have certain limited values at stake as opposed to others and, of course, we determine that through our fire planning. Our fire plans indicate what areas are of the highest priority and we operate on that basis.

Mr. Foulds: I imagine, but let me ask, would one of the major factors in determining your priorities be whether or not a town was threatened?

Mr. Cleaveley: Very much so. That is a very good point because our first thrust is the protection of life; secondly, property and, thirdly, the other resources in the province. These three things determine part of our priority system. Any community, even if it is in the area that we don't protect, for example, to the same intensity—in the northern areas, any native community in the north—we protect any village, all villages, of course, which are threatened by fire although we might not contribute as great a suppression action on a fire that is, say, 25 or 30 miles away and which might not be threatening anything. Certainly any community that is threatened, that is our first priority.

Mr. Foulds: You mentioned the mobility of the resources you have; I imagine that is largely through the aircraft. Have there been in this past year fires you weren't able to get at on the ground because of a lack of a roads system to timber limits which would have, if such road patterns had been available, severely limited the acreage of the fires?

Mr. Cleaveley: I don't think the fact that we haven't road access in every case limits our capacity to move equipment and manpower into an area. We depend very heavily on aircraft transportation, fixed wing and helicopters. There is a good part of the province, as you well know, which is not accessible by road and quite frankly we can often deliver people and resources to an area 100 miles from a road faster than if there had been a road there. The benefit of a road, perhaps, is in supporting a fire action or that type of thing.

Really, in terms of taking effective action with the system we presently use, I wouldn't consider the lack of roads to be a complete restriction on our capacity to get in and fight fire.

Mr. Foulds: But you would consider it some restriction?

Mr. Cleaveley: I certainly believe any road access, or any access at all available to us, does improve our capacity to move major supplies.

Mr. Foulds: Are roads ever used as one of the defensive points?

Mr. Cleaveley: Yes. We had a number of cases this year in which we actually used highways to backfire or burn out an area to avoid the fire jumping the highway. This is used quite often. If we haven't got a road we sometimes bulldoze; certainly we will drop a retardant line quite often with our aircraft and burn out from that. Roads certainly perform that type of use for us and are quite important for that purpose.

Mr. Foulds: In that sense, a more widely developed road system in timber limits would be of value in firefighting control?

Mr. Cleaveley: I think any road system can give us some values. It also sometimes gives you problems, in terms of giving access to the area.

Mr. Foulds: Because it gives access to the human beings who cause fires?

Mr. Cleaveley: Certainly, in weighing them off, I would think the values are probably to our advantage, to have access wherever possible.

Mr. Foulds: I am not sure if you replied to my last letter, Mr. Minister—do we have the final figures of the total cost of firefighting for the past season?

Mr. Cleaveley: Yes.

Mr. Foulds: Could I have those?

Hon. Mr. Bernier: I didn't hear the question.

Mr. Foulds: The total cost of the firefighting for the last season.

Hon. Mr. Bernier: This year we expect the extra firefighting cost to reach about \$20 million.

Mr. Foulds: About \$20 million? You don't have all the—

Hon. Mr. Bernier: No! All the receipts and all the bills are not in yet. An interesting point this year if I might just point it out to the members is that on August 24 of this past summer we had 265 fires burning in one day; on August 21 we had 105 new fires develop in one day. It shows you the magnitude of our problem. Last season we had 3,946 fires which burned about 1,290,000 acres of land.

Mr. Foulds: Do you have an estimated value of the timber destroyed and an estimated value of the timber saved?

Hon. Mr. Bernier: Bill, do you have the figures yet?

Mr. Cleaveley: I thought this question might come up. Our problem, in terms of estimating a value, is that we haven't got all our reports in and this is when we normally determine what the actual forest values lost were. Each area has its own value, depending on whether it's mature, immature or whatever type of timber. I think in that area we were looking at about 650,000 acres of fairly good timber values. There is no real point in giving you a guesstimate, I suppose, but I would think it would probably be worth something in the order of—there might be values in terms of \$25 million.

Certainly, in 1961 we had a burn of equivalent acreage to this year and at the end of that year about \$30 million of forest values were lost. That is standing timber primarily.

Mr. Foulds: I understand the nature of the guesstimate. What happens is that the cost of fighting the fires and the cost of the timber burned tend to be about equal this year. If we spent \$20 million extra fighting fires and the basic vote is, I would imagine—

Mr. Cleaveley: Eleven million dollars in fire priority. It maybe turns out that way this year; that isn't necessarily the way it will happen. We will know within a month or

two—a couple of months at least—what those timber values lost were.

Mr. Foulds: Okay. I would like to—

Hon. Mr. Bernier: I might say that normally we have about 1,500 fires a year and we burn out about 100,000 acres. Over the years, that's been the normal—1,500 fires with a loss of about 100,000 acres. When you compare that with this year—

Mr. Foulds: Twice as many fires in that time?

Hon. Mr. Bernier: Pretty near 4,000 fires and 1,200,000, acres.

Mr. Haggerty: Are any of these fires set by your ministry for reforestation purposes?

Hon. Mr. Bernier: No, although we do a certain amount of prescribed burning.

Mr. Haggerty: You do it, do you?

Hon. Mr. Bernier: Yes, we do prescribed burns. What did we do—5,000 acres last year?

Mr. Cleaveley: Yes, it runs anywhere from 5,000 to 10,000 acres and it's probably going to increase to some degree, too. It's for silvicultural purposes in most cases; slash areas which we want to clean up so that we can go in and do normal regeneration and so on.

Mr. Haggerty: They tell me you have quite a bit of success with that.

Mr. Foulds: It's one of the most valuable techniques.

Mr. Cleaveley: We can control those kinds of fires because they are set under conditions which are to our making whereas—

Mr. Haggerty: As I understand it—

Mr. Foulds: Like the weather.

Mr. Haggerty: —the foresters in north-western Ontario tell me that sometimes the forest fire is to their advantage because you certainly do get a new crop of trees coming in far better than you would say, with the artificial planting of trees.

Mr. Cleaveley: Yes, that's quite right, sir.

Mr. Haggerty: I think the foresters suggested or mentioned that perhaps you are wasting your money, the \$20 million, by going in there and fighting the fire because about 90 per cent of the fires burn out themselves.

Mr. Cleaveley: I wouldn't like to say that. I think we have to fight those fires because certainly they are not controllable when they are left to carry on themselves.

Mr. Chairman: I believe Mr. Foulds has the floor.

Mr. Foulds: That is not an equation I would be willing to go to. The other equation is the total banning of fire for regeneration purposes, which is also wrong in my view. It's a very useful tool but needs to be very carefully managed and the public in the area informed about it ahead of time. I think that we should keep that in mind.

Just one or two other points. After last year's experience—and I suppose you haven't had time to fully evaluate it after this past season's experience—is the ministry giving any thought to new kinds of equipment developments? Did the experience teach you anything in developing new kinds of equipment? There were prototypes that may have been used, like the imported plane from the States that is too expensive for the government itself. What are some of those things that have come to your attention? And what are your plans about that?

Hon. Mr. Bernier: When we bring in outside help, of course, we are always looking at what type of equipment they bring to an emergency, such as we had last year. That was an example when American assistance was obtained and received; they were using a special frozen food package for meals. The equipment they had for the forest firefighters was something we looked at very carefully; it was something of a military style of operation. Their communications were something we looked at very carefully, in addition to the infrared aircraft that came to help us.

I think you will recall a few years ago this ministry was involved in an experimental way to develop that type of equipment. It was an experiment. The United States has perfected it. It's expensive and it's much cheaper for us to get their assistance at any particular time.

I might just point out to the members that it's a type of aircraft that has mounted in it a special type of equipment and cameras that can actually take pictures through dense smoke. This does create a problem when you have severe forest fires in that you can't get in to find out where the front line of the fire is. So the aircraft goes up and takes photographs that are developed very quickly and then they plot them on the map to find out

where the front of the fire is, and are able to combat it much more effectively.

Mr. Haggerty: What happened to the satellite you had up there that was supposed to be taking these?

Hon. Mr. Bernier: I'm glad you brought that up, if I may just deviate for a moment. I had planned to invite the members of the committee to our remote sensing laboratories here in Toronto—this is the programme to which you are referring—to let the members have insight as to what we are doing and the pictures we are getting and the efforts of that particular programme.

It's absolutely fantastic. And maybe some time before the estimates are over we could arrange, Mr. Chairman, to take the committee over in the dinner hour and spend some time over there. It's not that far away from here.

Mr. Haggerty: It's supposed to be able to find even moose or deer.

Hon. Mr. Bernier: That's right. Just as a side comment, we had the pleasure of meeting with the Russian Ministry of Forestry very recently and the Minister of Forestry from Russia was with us, along with a group of his technicians. One of the areas they wanted to see, of course, was our remote sensing laboratory. They were taken over there and shown the sophisticated equipment we have and how we were able to take pictures from our satellite. The staff were telling me that during the course of the inspection they showed our Russian friends some of the pictures and one of them was a very detailed picture of central Russia. It came as a bit of surprise to them that we were that sophisticated and were able to take pictures of their country as well as our own.

Mr. Laughren: Did it make them nervous?

Hon. Mr. Bernier: I tell you they were surprised that we were that well advanced.

Mr. Foulds: Like that tunnel that somebody during question period said was going to Peking,

Mr. Laughren: They can relax. We cancelled the Orion deal.

[5:30]

Hon. Mr. Bernier: If the members are interested, if they would indicate to me sometime, we could set up a visit to that facility.

Mr. Cleaveley: I might say we do have a portable infrared unit that we have been using from a helicopter. It's a more portable piece of equipment and much cheaper but it serves the same purpose. It is used generally for mop-up purposes so that when the fire is almost out we can determine the hot spots without going on the ground, and then put our crews in and clean up an area rather than spend a lot of time trying to cover the whole perimeter of the fire. So it's very helpful that way.

Mr. Foulds: We do in fact have one infrared unit to use with a helicopter.

Mr. Cleaveley: Yes.

Mr. Foulds: The unit that was imported from the States was a jet?

Mr. Cleaveley: No. It was on a Beechcraft Kingair that could fly at night. It was an IFR operation and the aircraft was able to fly at any altitude. It was pressurized, and it's worth \$1 million approximately, I think.

Mr. Foulds: And the total cost of the rent to you was what, \$40,000?

Hon. Mr. Bernier: The exact cost for that particular unit?

Mr. Cleaveley: We haven't got all the cost figures from the US forest services yet. We've got one bill for around \$50,000. I'm not sure if that includes the infrared unit or not.

Mr. Foulds: In your letter to me of August 25 you said you were trying to persuade some agency in the federal government to purchase such a unit in co-operation with the provinces. Any developments?

Hon. Mr. Bernier: Yes. We think that the federal government with the vast bags of money they collect from the province of Ontario should have a piece of equipment that could be moved from province to province. This is something we are working on now if we can encourage them.

Mr. Foulds: But there have been no concrete developments?

Hon. Mr. Bernier: No. We are just contacting them.

Mr. Foulds: One last question, if I might: How much wastage is there of food and supplies that you buy on an emergency crash basis for firefighting and then the fire is out and the men are sent home and so on? What happens to that?

Hon. Mr. Bernier: Mr. Cleaveley will give you some exact figures, or close to it. It has come up during the course of the summer that the public does see wastage but I have to point out to you in the case of an emergency, when you bring on 300 or 400 men all of a sudden and get food, in the heat of the summer when there is no refrigeration and this type of thing, there are going to be these problems.

I know in my own area I had to explain publicly some of the reasons for this happening. We have tried to minimize that particular problem and we have been very successful in using portable refrigeration units such as they use on the highway in the transports in bringing in foodstuffs and meat and this type of thing in those portable units. It has worked very effectively. Mr. Cleaveley might have some more exact figures on the amount.

Mr. Cleaveley: I really can't give any answer in terms of percentage-wise or anything of this kind. We certainly make every attempt to preserve any perishable goods by whatever freezing equipment we have at the headquarters. I think this is one of the real strong points toward having the fire centres that we are establishing at Dryden and Thunder Bay, where there will be freezer equipment and storage equipment for this purpose, to preserve as much of the perishable goods as normally come back from a fire. In this situation this year I suspect there weren't very many goods, certainly foodstuffs, sitting around very long because when they came in from one fire they certainly went out to another one in a very short time. We try to buy as much dried food as possible and certain canned goods, things that won't perish, but with meats and things of this kind there are obviously going to be some losses in those situations in bush camps, particularly when you are living out of a tent and there are no freezer facilities available.

Mr. Foulds: What do you do with the leftovers? Do you give them away?

Mr. Cleaveley: We don't certainly give them away. I don't think there is any major quantity of these things. We often put them through our staff offices, houses and things of this kind or our junior ranger camps or whatever other activities might be going on. We try to put this food into use.

Mr. Williams: You mentioned the line of delineation between your full firefighting service and limited service. I think you referred to the 54th parallel as the line of

demarcation between limited and total suppressive activity.

Mr. Cleaveley: It's a little bit lower than that, sir. The fire district itself in the province of Ontario goes up to the 54th parallel, which is up around Big Trout Lake in north-western Ontario and across. Our intensive protection area is something in the order of 52 degrees latitude. That is what we use as a line; it's a vague line which is only used in terms of how many fires we have south of it and so on. We quite often go above that, if there aren't too many fires.

Mr. Williams: Does that line of delineation also establish the area of heavily wooded areas and the more sparse areas? You're moving above the tree line in some instances, aren't you?

Mr. Cleaveley: Yes. That line, generally speaking, follows the best merchantable timber in the province. Beyond that, you're getting into timber that is basically non-commercial or non-accessible.

Mr. Williams: I see. Thank you.

Mr. Minister, this summer, because of the excess number of forest fires and the unusually large numbers of personnel and material that had to be brought in, there was some criticism of the fact that we had to rely on outside resources. I think a large contingent of firefighters were brought in from western Canada; I think it was Alberta. Were there not fully qualified people within Ontario who, while they might not normally be engaged full-time in firefighting activity, would be available to us on a standby basis and would have prevented that call for people from so far afield being brought in?

In conjunction with that, perhaps you could indicate whether it would be normal for us to call upon the federal authorities to come to our assistance in an extreme crisis such as this, while normally, as far as I'm aware, they don't get involved. Have we called them in the past, did we call upon the federal government in this instance, and what was the response if they were called upon?

Thirdly, in addition to the Alberta firefighters and the call upon the federal authorities, if any, what other outside agencies were relied upon to assist us in this past summer's activity in fighting the fires?

Hon. Mr. Bernier: If I may answer that in two parts, Mr. Chairman, I'll deal with the Alberta situation. First of all, I'd say we've got excellent relationships with the other provinces in the movement of men and per-

sonnel in a state of emergency such as we had last summer. Over the past years we have moved some of our staff and equipment to, say, Quebec, Manitoba, Saskatchewan and Alberta; they, in turn, come to our assistance when we have an emergency—providing, of course, they are able to free up that equipment in their own provinces at that particular time. So the relationship is exceptionally good.

When we brought in the Alberta contingent, all our trained firefighters were actively engaged on fires somewhere in the province. When you think that we had 265 going at one time, that was a little bit more than normal. We train our staff and we train the native peoples—they are excellent firefighters—and they were all out; but the emergency was expanding, so we called on the Alberta government to assist us. They brought down a complete package of men and equipment; that complete package not only included the men, but food, communications—the whole gamut. They were dropped on a specific fire; they operated on their own and worked on a particular fire. When they had it under control, they could move to another one or return. We were very thankful for the package unit that dropped in from Alberta, and we have expressed in no uncertain terms our gratitude and our thanks for their response to our request.

Mr. Williams: How many personnel were involved?

Mr. Cleaveley: Approximately 250 native crews. There were nine 25-man crews, plus some of their own overhead.

Hon. Mr. Bernier: That's one aspect of it. The other aspect you mentioned is the assistance from the federal government. We have a good relationship with the federal government. We have received excellent co-operation in the past when we've called, not only in forest fire emergencies but in flooding emergencies, such as we had at Kashechewan this spring. We called on the federal government and the army to bring in two very large helicopters and they were there in a matter of hours.

This summer we had a very unfortunate incident, as I related to the members of the Legislature, when we did contact the federal authorities for a special type of equipment through the normal channels, through our normal steps of contact, and we were told that because of the Olympics and moving personnel to and from the Olympics this equipment wasn't available at that particular

time. We couldn't wait in an emergency so we went to the next best place and contacted the Department of External Affairs, I believe—Mr. Cleaveley?—and through their co-operation with Washington we were able to get from—

Mr. Cleaveley: From the bureau of land management and the US forest service, a combined centre at Boise, Idaho.

Hon. Mr. Bernier: They moved in to assist us during that particular crisis. When the information about this incident did reach Ottawa there were some red faces and some apologies, but after the emergency was over. We've got that straightened out and I think that we're back on track again but it did cause us some concern for a short period of time.

Mr. Cleaveley: I think it's fair to say, Mr. Minister, that what we did get from the US forest service and so on was basically equipment and a few experts in communications plus some food and some special kits they have. We didn't actually get any aircraft, other than what transported the material up here and took it back. We didn't actually get any helicopters or anything from them.

Mr. Williams: I presume that the biggest component of firefighting equipment is composed of your aircraft? I say that on the assumption that's correct; that may not be. Could you enlighten the committee on that score and indicate what the nature of your inventory of aircraft is and how you position them around the province to deal with emergency situations in any location?

Mr. Cleaveley: Yes, we'd be happy to, sir. We have a total of 36 bombing aircraft. Six of those are tracker aircraft—they're chemical bombers—and they're established in the field at a couple of locations in the province, three at Dryden normally and three at Sudbury.

Mr. Williams: What kind are those? Trackers, did you say?

Mr. Cleaveley: Those are trackers. They're twin-engine aircraft which we acquired through Crown assets several years ago and converted to chemical bombers. They carry about 800 gallons of chemical.

Mr. Williams: They're land-based?

Mr. Cleaveley: Land-based bombers, yes. The other aircraft are float aircraft in our own fleet. We have 10 Otters, 20 Beavers and two Twin Otters.

Mr. Williams: So they're all home-made aircraft? Canadian?

Mr. Cleaveley: De Havilland. These aircraft are located in the field at 16 bases across the province. In some cases there are two or three aircraft at each base; in other cases there's only one. These are our major aircraft operations. We have no helicopters in ownership but we do charter or lease five or six helicopters every year to supplement this operation for the summer months.

[5:45]

Mr. Williams: Because of the seasonal nature of the problem, are these aircraft, while equipped especially to fight fires also put to any other use? Are they available for any other use by the ministry during the other seasons of the year. If so, how are they utilized to get full value out of them?

Mr. Cleaveley: They are very definitely usable in all seasons, except for the Trackers which are specific-purpose aircraft. We are not allowed to carry passengers with that type of aircraft. But certainly all the others—the ministry-owned Yellow Birds as we call them—are all equipped with skis and wheels for the wintertime. We operate all winter with those aircraft for timber, fishing, wildlife transportation, and any kind of management purposes for the ministry. The aircraft are working all year round in most cases. We don't have as many aircraft out in the field in the wintertime as we do in the summer. We just turn them over from fire bombers in the summer to ski-equipped aircraft for the winter months for other management purposes.

Mr. Williams: Do the budgetary estimates before us today include acquisition of any additional aircraft from what's in our present fleet?

Mr. Cleaveley: No, it doesn't, Mr. Williams.

Mr. Williams: At the staff level, is there any indication of the need of expanding the fleet, or is it proving adequate, short of this past summer situation, which was double the average number of forest fires?

Mr. Cleaveley: Perhaps the best way to answer that is we have a study by three of our senior field people of the whole air service operation going on at the present time. They will be turning in a report in terms of the type of aircraft, and the usage and giving us some indication of what the future possibilities are for different types of

aircraft to suit the purposes of the ministry. Until that report comes in, which it should shortly, we are kind of holding off in determining where we might go in the aircraft field in the future.

Mr. Williams: I can't recall from which corner it was suggested, but because of the intensity of the forest fires this past summer it was suggested that the extent of the smoke layer that spread over the north central part of the continent actually had an effect on climatic conditions, adversely affecting some of the crops that were being grown in the central parts of the United States and Canada. Has that been verified or is that just nothing more than conjecture that it was so extensive as to adversely affect even activities in southwestern Ontario, such as growing of crops?

Hon. Mr. Bernier: I did hear comments to that effect. I haven't seen any verification of that. I do know that in many instances the fires were so large and the heat was so intense that those forest fires actually generated their own climatic occurrences and conditions and did cause us problems in the immediate area. But to spread beyond that, I wasn't aware. Maybe Mr. Cleaveley would know.

Mr. Cleaveley: I haven't heard anything to that effect. I think you have to recall and remember that we weren't the only ones that had a quite severe fire situation this year. Certainly in Minnesota, Michigan and some of the northern states they had equally as bad conditions, very serious drought conditions. They were putting up as much smoke I think as we were. I haven't heard of any indication that the smoke was doing any damage to crops.

Mr. Williams: I'm not suggesting it was solely attributable to our forest fires, but just the general conditions in that part of the continent, the smoke cover rather than the heat from the immediate locale, I'd heard suggested, had actually disturbed the normal climate conditions for the area and had adverse effects on crops. I have never seen it verified and I was wondering if you had that information.

Mr. Cleaveley: No, I'm sorry I can't indicate that.

Mr. Williams: I think that's all for now.

Mr. Lane: Mr. Williams touched on a lot of the things I was concerned about, but I'd like them to be followed through a little

further. The minister explained that Alberta, I believe, brought in complete firefighting units and took care of fires per se, and we're thankful that they did. It seems to me we have done this for them and other provinces in past years. Do we have a sort of arrangement with other provinces in this matter? Is there any average to show whether we're ahead or behind in a 10-year period or anything of that nature?

Hon. Mr. Bernier: I don't know if we have formal legal agreements between each province, I know the co-operation is excellent. Maybe Mr. Cleaveley could answer on the formal aspect of it.

Mr. Cleaveley: We do have a formal agreement with the province of Quebec and we have a memo of understanding with Manitoba and with Minnesota. I think the mutual aid arrangement we have in Canada is through the Canadian committee on forest fire control which has been in existence for many years. I think Mr. Mackey was one of the first chairmen of that committee; he's a former fire control chief.

Our arrangements have been that we will assist one another. There are meetings held every year and Mr. Sleeman, our director of fire control, has been the chairman for the last two years. We have very close relationships with all the other provinces not only in terms of mutual aid but in terms of developing new technology and establishing relationships in activities which go on in the fire control field. It's a very useful organization for this purpose and we have found that it's really not necessary to have formal agreements in these situations because we've had such good relationships that no one stops to consider who's getting paid or how or anything else when an emergency occurs. We have been getting tremendous co-operation from all sides, in aircraft and people and assistance in anything we require.

This is one of the reasons it is not necessary—it helps to make it not necessary—to gear up for the very worst situation because we know we can get assistance from time to time from other provinces. We reciprocate as the minister has indicated.

Mr. Lane: But we do pay them and they do pay us? Do we have any statistics on a 10-year average or any period of time? This year we certainly must have been on the losing side as far as dollars and cents are concerned but what would happen over a period of time?

Mr. Cleaveley: I believe, if I'm not mistaken, we paid Quebec for the use of their CL-215s. It amounted to something like \$150,000. Regarding our bill with Alberta, I don't think we've got all the invoices in yet but, certainly, we pay the normal payrolls they would have for their people and the same for their equipment. We establish a rate for their equipment and it's usually much below what it would normally be for anyone else.

Mr. Lane: As the minister has said, we normally have a pretty good relationship with and co-operation from the federal government. We had one incident this year which caused some red faces in Ottawa, I understand, but, again, do we have an agreement—do the provinces have an agreement with the federal government to provide this aid and do we pay them as well?

Mr. Cleaveley: We certainly pay them whenever we acquire their services. We do pay the full value of their equipment and, generally speaking, it's quite expensive. We have no formal arrangement other than that in normal situations we can call upon them. There is a Downsview Emergency Centre here which we contact—we have in the past and we've received assistance. This has never created a problem.

Their major concern, of course, is that the provision of this equipment is generally in terms of an emergency situation where there is an evacuation or a threat to lives in a community. That's what they're really in business for—to provide that protection or provide that response. Normally, we try to deal through the commercial operators and our local operators in the province for equipment.

Mr. Wildman: Mr. Chairman, I have a couple of questions on this topic for the minister. I'm wondering—I don't know whether you discussed this earlier when I was out—if you have any information as to the number of fires started in northwestern Ontario this year as a result of sparks from trains?

Hon. Mr. Bernier: Yes, I believe we have some indications on that. I have to point out to you that during the months of July and August a large number of our fires were started by lightning because of the low water conditions, the drought conditions, and the lack of rain; the storms were going across.

I will just point out to you, while Mr. Cleaveley is getting those statistics for you,

that through the assistance of the federal government we have a meteorologist with us who works in our head office in Queen's Park. He helps us with the weather conditions and is able to follow the electrical storms across northern Ontario, after which our surveillance aircraft go up and follow the storms and pick up the fires at an early period when they are relatively small. Then the attack squad goes in. This is one reason we had such a high number this year. When you were out, I mentioned we had 3,946 fires this past summer, and our normal is about 1,500.

Mr. Wildman: I understand the climatic conditions were the major cause. I was just interested in how many appeared to be caused by trains.

Mr. Cleaveley: We classify them as railway fires. In some cases this does not necessarily mean it was started by the railroad or any of their equipment. The situation is that any fire which starts on the right of way on the railroad is classified as a railway fire and in most cases they accept responsibility for—at least, the payment of the costs of that fire.

This year, to date, we had 347 fires classified as railway fires. This represents about nine per cent of the total and if you look at the overall percentage over the years, this is generally what happens—nine to 10 per cent are railway fires. We had quite a number of railway fires at one point in the season but it tapered off afterward.

Mr. Wildman: In those cases, the railroads have what responsibility?

Mr. Cleaveley: The railroads are responsible for notifying us of a fire if they are the first to find it; quite often they are. We take on the responsibility in most cases of suppressing those fires and if it is classified as a railway fire we submit a bill to the railroad for our costs of suppression.

Mr. Wildman: Mr. Chairman, I have some other questions regarding equipment. It will take a little while.

Mr. Vice-Chairman: Could you leave that until tonight?

Mr. Wildman: Sure.

The committee recessed at 6 p.m.

CONTENTS

Thursday, October 28, 1976

Land management programme	S-2313
Water control and engineering	S-2313
Forest protection, extra firefighting	S-2326
Recess	S-2334

SPEAKERS IN THIS ISSUE

Bain, R. (Timiskaming NDP)
 Bernier, Hon. L.; Minister of Natural Resources (Kenora PC)
 Eakins, J. (Victoria-Haliburton L)
 Ferrier, W. (Cochrane South NDP)
 Foulds, J. F. (Port Arthur NDP)
 Germa, M. C. (Sudbury NDP)
 Haggerty, R. (Erie L)
 Johnson, J.; Vice-Chairman (Wellington-Dufferin-Peel PC)
 Lane, J. (Algoma-Manitoulin PC)
 Laughren, F. (Nickel Belt NDP)
 Makarchuk, M. (Brantford NDP)
 McClellan, R. (Bellwoods NDP)
 McNeil, R. K.; Chairman (Elgin PC)
 Reed, J. (Halton-Burlington L)
 Wildman, B. (Algoma NDP)
 Williams, J. (Oriole PC)

Ministry of the Attorney General officials taking part:

Cleaveley, W. G., Executive Director, Field Services Division
 Giles, J. W., Assistant Deputy Minister, Lands and Waters
 Herridge, A. J., Assistant Deputy Minister, Resources and Recreation
 Irizawa, K. K., Executive Director, Division of Fish and Wildlife
 Panting, S. B., Director, Engineering Services Branch
 Peacock, A. H., Director, Conservation Authorities Branch
 Smith, M. S., Director, Legal Services Branch



Government
Publications

Legislature of Ontario Debates

SUPPLY COMMITTEE—2

ESTIMATES, MINISTRY OF
THE ATTORNEY GENERAL

OFFICIAL REPORT — DAILY EDITION

Third Session of the 30th Parliament

Thursday, October 28, 1976

Afternoon Session

Speaker: Honourable Russell Daniel Rowe

Clerk: Roderick Lewis, QC

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CONTENTS

A list of the speakers taking part in the debates in this issue of Hansard appears, in alphabetical order, at the back of this issue.

Daily contents of proceedings also appears at the back of this issue. Reference to a cumulative index of previous issues can be obtained by calling the Hansard Reporting Service indexing staff. (Phone 965-2159)

LEGISLATURE OF ONTARIO

SUPPLY COMMITTEE

THURSDAY, OCTOBER 28, 1976

The committee met at 4:05 p.m. in committee room, No. 2.

ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL (continued)

On vote 1201, law officer of the Crown programme; item 1, Attorney General:

Hon. Mr. McMurtry: I would like, first of all, to introduce to members of the committee the staff who are here, whom you will no doubt wish to question during our hearings. If I am confused in relation to any of their titles, the deputy minister, Mr. Frank Callaghan, who is directly on my left, will correct me.

He is the Deputy Attorney General, also referred to generally sometimes as the deputy minister of the Ministry of the Attorney General but more accurately the Deputy Attorney General. Next to Mr. Callaghan is Mr. Brian McLoughlin, the general manager of the ministry—I think that's the correct title isn't it—and next to Mr. McLoughlin is Mr. John Hilton, QC, assistant deputy minister in charge of common legal services.

Next to Mr. Hilton is Mr. John Greenwood, QC, assistant deputy minister responsible for the Crown law office and also the Crown law office criminal division, and who is continuing to act as a director of Crown attorneys. Next to Mr. Greenwood is Mr. Graham Scott who is our inspector of legal offices and director of courts administration and next to Graham, Mr. Blenus Wright, assistant deputy minister, Crown law office in civil matters.

Next to Mr. Wright is Mr. Archie Campbell, who is director of the policy development in the ministry and senior Crown counsel, Mr. Rod McLeod, who is senior Crown counsel and director of the Crown law office and criminal appeals, which includes also special prosecutions, and the two gentlemen down at the end Mr. Henry Gibbs, director of finance, and Mr. Bert Labrash, budget chief. And, of course, our new legislative counsel Mr. Arthur Stone,

QC, who is senior legislative counsel—is that the correct title?—in any event, as the Speaker announced the other day, the successor to Mr. Alcombrack and a long-time associate of Mr. Alcombrack.

It's been pointed out to me, Mr. Chairman, that some of the ministry was re-organized very recently and that the form chart won't correspond entirely with respect to the estimates. That's the form chart that is published with the estimates. The form chart in the estimates is up to date, but the chart in the annual report is not.

Mr. Vice-Chairman: I am beginning to understand why I never understand lawyers.

Mr. Roy: Don't feel bad.

Mr. Vice-Chairman: I pray to God I never understand lawyers. Have you finished with the introductions?

Hon. Mr. McMurtry: Yes, I am sorry. Thank you, Mr. Chairman.

Mr. Vice-Chairman: There will be questions later. Mr. Lawlor, I understand that you want to yield to Ms. Sandeman? Yes, do you want to raise a point of order?

Mr. Roy: I understand that Mr. Lawlor was going to complete and then it was our turn, so how does it work now? He's yielding to Ms. Sandeman?

Mr. Vice-Chairman: I take it what you want to do is a short interjection question as opposed to a long—

Ms. Sandeman: I understood it went Lawlor, Sandeman—

Mr. Vice-Chairman: No. It goes Lawlor, Roy, Sandeman.

Ms. Sandeman: I'm sorry.

Mr. Vice-Chairman: I'd be prepared to let Mr. Lawlor yield.

Mr. Lawlor: No, Mr. Roy then comes ahead of me. That's fine.

Ms. Sandeman: Okay.

Mr. Vice-Chairman: So, whatever is your pleasure, Mr. Lawlor could conclude and Mr. Roy could assume. Mr. Lawlor could yield and Ms. Sandeman could take his place.

Ms. Sandeman: Meanwhile my bus has gone. I'll just take last place.

Mr. Roy: No, no, if there's a time problem, go ahead.

Ms. Sandeman: Okay. There was, I guess, one major thing that I was very disappointed about at our first meeting of these estimates—one major thing and one minor thing, which I mentioned to the Attorney General and which was that it would have been helpful to have the staff introduced, and he's now rectified that.

The thing that really disappointed me, Mr. Attorney General, was that I expected that at the leadoff for your estimates you would give us some major statement about what you had been doing in the past year in your ministry and some statement about what you plan to do. I understand well that you've been tabling in the House a series of bills, white papers, policy statements and so on, and these relate to legislation that is about to happen and we'll have full chance to discuss that. But I still think that what I expected and hoped to hear was some solid account of your first year in this very important office. I don't have to tell you how important it is.

I think I expected two things from your opening statement, one of which Pat Lawlor pre-empted in a way by his philosophic statement that he gave us the other night. I would like to have heard just briefly from you some general statement about how you're approaching the whole business of being Attorney General. I know that's a big mandate, but I think it's important that we should know that. I know that that should become evident from the way that you carry out the task, but I would like to hear you say it.

Secondly, I would have expected to have some fairly solid statement of what your ministry had been up to for the past year. I know we'll get into details during the estimates but I was hoping for an introduction. You mentioned in a throw-away line, well maybe the flow chart at the beginning of the estimate book wasn't quite correct because of the reorganization. I would have expected some statement about reorganization. What kind? Why? Is there a change in priorities in your ministry that's led to reorganization? Or have there been some kind of problems

that you've discovered coming new to the ministry, that you've taken hold of and said a reorganization would handle?

We didn't get any of these things and we cannot rely—although we are all of us very smart—on digging out everything we need during the estimates, partly because of the pressures of time, partly because we all go off at a tangent on our own particular interests. I think you missed a very important chance for all of us to put your ministry into perspective when you didn't give us an opening statement, and I'm sorry about that. Maybe by the end of the estimates we will have got that opening statement piecemeal, but I just wanted to say that I could hardly believe my ears when you, in fact, said to Pat Lawlor, "Now I'd like to hear your opening statement," and there was none from you.

I'd like now, if I may, to get down to some of the nitty-gritty financial stuff in the first vote before us. I'd like to ask the chairman's guidance on this. Are we dealing with vote 1201 in totality or are we dealing with it vote by vote?

Mr. Vice-Chairman: We've been doing it item by item. We would allow some latitude.

Ms. Sandeman: Okay. I think you can cut me off then if my latitude gets too—

Mr. Lawlor: Too longitudinal.

Ms. Sandeman: Too longitudinal or something. Okay. Perhaps I could give you a series of questions and you could interrupt, or if you want to try to answer them as a package I'd be happy either way.

[4:15]

First of all, perhaps you could give us some explanation, under the first vote, of the reorganization that's gone on in the ministry. That may well be reflected in the first vote. I think it may particularly be reflected because half of the calendar year which we're dealing with since you made Attorney General is—

Hon. Mr. McMurtry: Excuse me, Ms. Sandeman, but I should indicate that there was no major reorganization. There was a realignment of some jobs in the ministry, made necessary to some extent by people leaving the ministry, and made necessary by other practical considerations. But there has been no major reorganization of the ministry.

Ms. Sandeman: All right. I have to admit then I'm a little bit confused about the vote 1 items in that case. I see you've kept your

staff level constant. You seem to be expecting to pay out less in staff benefits to the same number of staff than you did last year. Perhaps we could have some explanation of that. The salary level stays the same but the actual benefit level last year was \$16,400 or \$16,000, and this year you expect only to have to pay out \$11,000. I wonder if it would have been more realistic to up the figure.

But the thing that really surprises me is that in your office, the standard account item—vote 1201, item 1—both the services and equipment estimate for last year was actually overrun by about 55 per cent on each budget. I think we'd like to have some explanation what happened in the office during the year to cause that really quite high overrun, and have some assurance that the estimate for this year is really not going to be overrun in the same kind of way.

What I'm saying I guess is, in the interest of restraint are you budgeting unrealistically? I think we'd all rather have the realistic budget than find the Management Board orders, the supplementary estimates and so on creeping in on us during the year.

The services last year were estimated at \$25,000, the actual was \$38,000. The supplies and equipment were estimated at \$18,000, the actual was \$30,000. And the breakdown shows that services includes consulting services. Maybe you could give us some idea of what kind of consulting services that office is using. What I'm really after, I guess, as a new member of the Legislature and of this committee, is more of a feel than you have given us as to what your office is actually up to on a day-to-day basis. We know about family law reform. We know about the white paper on the courts administration, but is this what the money's going on or what are you up to in there?

Hon. Mr. McMurtry: Well, first of all, Ms. Sandeman, I can say we are both new members of the Legislature. I have the added burden of being a new minister, and I can assure you that I am learning a little bit more every day with respect to the budget of the Ministry of the Attorney General, and I still have a great deal to learn. But in relation to the questions that you've raised, I think I have the answers to some of your questions, but I think you'd have a much more succinct and probably more accurate response if I were to ask Mr. Brian McLoughlin, the general manager, who also serves as the comptroller, to assist you in that respect.

Mr. McLoughlin: To answer your first question, you appreciate I'm sure, that when we do the estimates for a year as when we did these—these figures for 1976-77 were developed in about December of last year—it's almost an impossibility to budget right to the penny. Certain factors come into play that we don't have knowledge of.

For example, you spoke about the employee benefits. Why—and that's a good question—is the staff level the same but the employee benefits we have budgeted for are less? We had an employee who had been with the government for some years, a secretary, who left the public service and under The Public Service Act there are certain employee benefits on termination. That's what it was. I believe it was \$6,500, if I'm not mistaken.

Ms. Sandeman: I hope he or she got it quicker than I got mine when I left the ministry.

Mr. McLoughlin: That's the reason for the difference. The difference between 1975-76 and 1976-77 is that government benefits increased, I believe, from 11.8 per cent to 13 per cent, which accounts for that difference.

In the area of services we bought some additional equipment, typewriters, things of that nature which accounted for a portion of it. The other is just general service costs. Also it was necessary for us, under the regulations, to trade in the minister's automobile which had come to its mileage and time limit. That is either three years or 70,000 miles.

Those two items account mainly for the increase in services.

In supplies and equipment, really, there we have an inflation allowance. It's the same in services; there is an inflation allowance which accounts for \$2,000 or \$3,000. The increase really isn't that large overall.

Ms. Sandeman: Except that in last year's estimates and last year's actual there was a 55 per cent—

Mr. McLoughlin: What, in that one item?

Ms. Sandeman: In the services item and in supplies and equipment. Does a car not come under supplies and equipment?

Mr. McLoughlin: Yes, it came under supplies. There was one item and that was consulting fees of about \$20,000 during Mr. Clement's tenure as Attorney General. That

was for consulting services which he had used. That isn't in this year's budget.

Ms. Sandeman: This is Energy Conservation Week. Was there any attempt made to get a more energy efficient car for the minister when it was bought last year?

Mr. McLoughlin: We bought a standard car of the type as specified.

Ms. Sandeman: What is specified for ministers these days?

Mr. McLoughlin: I've forgotten the range. I think there is a Buick car, there's an Oldsmobile—they are in that range.

Ms. Sandeman: Do you think that is the most energy efficient car that Mr. McMurtry could be driving around in?

Mr. McLoughlin: I suppose we all know that with any kind of car some are more energy efficient than others. Really I think that the prestige of the office—at least, I wouldn't expect a senior executive in industry to be driving around possibly in a Volkswagen. I don't think it would be the type of car that you would use if you are travelling a lot.

Ms. Sandeman: If I may get off on to another ministry's portfolio, that's where energy conservation falls down. If prestige comes before conservation, we are lost, but that's another thing entirely.

Hon. Mr. McMurtry: I just want to interject for a moment, in my own defence, if I may. At no time did I indicate that I wanted a new car or any particular type of car.

Ms. Sandeman: No, I'm not—I understand that one of the burdens of being a minister is that kind of decision is taken out of your hands.

Hon. Mr. McMurtry: I suppose I could have been involved in the decision if I had thought that it was an important matter. I have to say that it wasn't something that was on my mind but perhaps on another occasion—I think the point you make with respect to energy conservation is a valid one.

Mr. Roy: I think you would look good in the back of a Volkswagen—or as much of you as would fit in the back of one.

Ms. Sandeman: Could I ask you a couple of other questions here because I don't know if they come under the first vote but I am not quite sure what they do come under?

I have a general question connected with the meeting of the Attorneys General in Calgary in January of this year—I'm sure you were there—at which the need for a comprehensive Canadian manual of criminal justice standards was discussed. After the meeting it was announced that the provincial Attorneys General intended to develop such standards but there has been no further public announcement. Could you give us some indication at this time what is happening to that?

Hon. Mr. McMurtry: I think the Deputy Attorney General can give more details than I can. As I recall, the request came primarily from Newfoundland, a very understandable request, which expressed the concern that because of the fact that some provinces had less adequate resources than others, there should be some initiatives taken by the federal government to legislate a standard or somehow implement a standard administration of justice that would hopefully be uniform of high quality throughout the country and not be dependent upon the wealth of any individual province. Mr. Callaghan perhaps can recall what developed from that.

Mr. Callaghan: As a result of that, they set up a committee made up of representatives of each Ministry of the Attorney General across the country. The first step was to prepare an inventory of the existing resources in the justice system. Mr. Scott was our representative on that committee. Each province undertook a certain segment of the system.

For instance, we undertook to ascertain from all the Attorneys General ministries across the country the state of their Crown legal service, how many lawyers they had, how many judges they had, what rules they had that applied to them, and that type of thing. It is a massive job. They have brought together a series of reports which they are going to distribute to the Attorneys General at their next meeting but they are far from complete. Because the justice system has to break down into so many components, it is a little difficult for everybody to get all their stuff together at one time.

We are progressing along that line, but we really are at the first step of trying to find out exactly what is available in the justice system before we can establish the standards. The federal government, for some reason or other, is not participating, but all the provincial governments are working together through their meetings of Attorneys General and Deputy Attorneys General to develop, first, an inventory of what is available and then to look at the inventory and see what a

national standard should be based on. That is the way it stands now.

Ms. Sandeman: Do we have in Ontario already a clearly delineated provincial standard—a set of standards?

Mr. Callaghan: I don't know what you mean. I don't think any jurisdiction in this country has a set of standards. We have had the Law Reform Commission recommendations on various aspects of the justice system. We've had different recommendations from different law reform commissions on it. I don't think anybody in this country has ever directed attention to what an adequate justice system requires in any province. This is really the first time that is being done. It is something I guess the provinces are probably most capable of doing because of their responsibility to provide that system. They have the basic inventory, although the federal government has a considerable inventory too that for some reason or other we haven't been able to get yet.

That is in its evolutionary stage. It's really being run as a subcommittee of sort of continuing meetings of deputy ministers who prepare the material to go to the ministers' meetings whenever they get together. The Attorneys General meet on sort of an ad hoc basis two or three times a year now. I think that started in 1974.

Ms. Sandeman: Perhaps another thing I could add to the contents of the non-existent lead-off statement would have been some report from the Attorney General on contacts he has had with his fellow Attorneys General across the country and where you are moving as a group in the Canadian justice system. I really feel a great vacuum in not having anything—

Mr. Lawlor: Don't worry. They won't ever do that again.

Ms. Sandeman: Well, I hope not. Maybe none of us will be here this time next year.

Hon. Mr. McMurtry: I must confess I am guided to some extent by what has been done by my predecessors in the past. There are a lot of matters that I think we are doing of interest, and that I am particularly interested in. I think your suggestion is a very valid one. In the event that I am occupying this chair on another such occasion, I will be more than happy to do it.

[4:30]

Ms. Sandeman: Another related question, which if there had been an opening statement

I thought we might have heard some comment on, would have been the current provincial thinking on the young persons in conflict with the law suggestions. It's not clear to me—maybe it is to you—just whether the federal government intends, in fact, to proceed. But if they do, where's the provincial thinking on this? What is your own thinking? Maybe there's a vote under which this could be discussed; if so, I'd be glad to have your judgement on that.

Hon. Mr. McMurtry: Probably it comes under the family courts.

An hon. member: Vote 1206, item 4.

Ms. Sandeman: Okay. In that case I'll reserve my comments on that point. I didn't have anything else to say specifically on vote 1201, item 1, Mr. Chairman.

Mr. Vice-Chairman: Okay. Mr. Roy?

Mr. Roy: I acceded to Ms. Sandeman, but I don't want to supersede anything Mr. Lawlor has to say.

Mr. Lawlor: No, go ahead.

Mr. Roy: I want to discuss various matters with you, Mr. Attorney General, and I'll discuss specifics. Although I made an opening statement, I didn't say everything I wanted to say; maybe I was not aggressive as I should have been, but in any event—

Hon. Mr. McMurtry: I thought you were quite aggressive.

Mr. Roy: Well, I didn't get under your skin or anything. I suppose I could have tried that. And I didn't discuss philosophically where justice is going. Possibly it's because of my background; when you are looking at the courts on a day-to-day basis, as I do, you sometimes forget the philosophy or the long-term policy.

Mr. Lawlor: Lawyers are among the most practical men.

Mr. Roy: However, I do want to discuss a case with you that has caused me great concern, and I say this with all the sincerity I can muster because it's not a case that I've received any marks for by raising it on various occasions. In fact, from my public point of view, I probably lost a lot of votes every time I talked about this situation. I think you know what I'm talking about; it's that so-called vice ring or what they call the white slave ring in Ottawa.

To enlighten the members, and to discuss it with the members of the department who are here, you will recall that some time back in the month of March 1975 there was a situation in Ottawa where it was found that young boys apparently were being used as male prostitutes for certain members of the community. A succession of charges was laid; I think 17 people in all were charged as a result of this investigation. I know very few cases in the country that have had more publicity than this, because every time there was a new charge laid it was on the front pages of every paper in the country.

At that time, because of the publicity, you can well imagine that for the individuals involved, the people charged, just the fact that they were charged at that point, for all intents and purposes, destroyed their reputation. Some of the people charged were in the RCMP, some in the armed forces, and many, of course, were public servants. I suppose the thing that hurt their case more than anything else was that the Gay Liberation Movement got involved in this and started protesting. I don't particularly care for the way they operate and the way they picket the police station; I think they do their cause a lot of harm. But at that point I was just sort of observing what was going on.

What really happened was that 17 people were charged; and on each of those occasions, as I said, there was an awful lot of publicity. I've got all sorts of clippings here of some of the headlines we saw in some of our local papers. For instance: "Young Boys in Ottawa's Most Sordid Crime," "White Slave Ring," "Another Charge in Slavery Ring," "Second Man Held in Homosexual Ring"—all sorts of stuff that headlines are made of—"Sex Scandal Man Jumps to his Death." It went on and on every time there was a charge. This went on for a period of weeks and months and a succession of people were charged.

At that time the Ottawa police held a sort of press conference and they talked about the fact that what was involved here was boys—it was reported there were 10 boys, aged 11 to 17, and that they had been hired out to something like 200 different customers. This was the sort of situation or picture that the Ottawa community was given, that here we were dealing with a major sex ring involving young boys.

The police made all these statements and obtained all this publicity and then the courts took over, the Crown attorney's office and so on. Of the 17 people charged, just the organizer of this whole ring, a fellow by the

name of Gravelle—I think he worked under a front of modelling agencies—was convicted and he was sentenced to two years less a day in reformatory. All the other people charged were acquitted and not one of them served a day in jail or anything of this nature. One of the individuals charged, a civil servant, committed suicide.

You can well imagine that all these other individuals whether they were in the RCMP—there was a broadcaster; you heard about the Duthie situation—there were people involved with the armed forces, civil servants and you can imagine what that did to their reputations. In any event, the result of it all was that none of these people served any time.

As it turned out the major witness in the case was not a series of young boys but one witness, a 15-year-old boy, and as the trial progressed it was found out that this one witness was under psychiatric treatment. It was found out later that being under psychiatric treatment first of all it was questionable whether you should rely on that sort of evidence, and secondly that he had been coached in his evidence in giving statements by the police and that's on the record. Let me read you a little paragraph where he was cross-examined in one of the cases and he was asked,

"Now, insofar as that is so, the statement that you gave has certain facts that are yours but they were given to you by the police." He says, "Yes."

"And it is not only with regard to dates but with regard to names, some names." He says, "Yes, some names."

"Some names and also with regard to some addresses." He says, "Yes."

"Now you have just told us that certain addresses which appear on your statement did not stem from your recollection but from what the police told you." "Right."

"And if the police gave you addresses, you wrote it down." "Right."

"And you wrote it down because they asked you to write it down." He says, "Yes."

"And similarly with the names of customers, they had to supply to you with some names of customers, right? And because you did not recall or have some knowledge about some of the names?" He says, "Right."

"And I take it that the reason that you signed the statement was because you assumed what the police were telling you was true?" He says, "I didn't know what

I was doing. I didn't know that it had to be my statement. They were telling me things to write down."

He admitted in one of the preliminary inquiries that he had been coached by the police. At the same time he was under psychiatric treatment.

In some of the other cases I found in my discussions with some of the defence counsel that when there was a question of identity, identifying certain of the accused, prior to trial some of these young witnesses apparently were brought into the courtroom—or he was brought into the courtroom—or brought in by a back door and asked to view some of the accused so that he could identify them once he gave his evidence.

This young man's evidence really, for all intents and purposes, was totally unreliable because either he had been coached or he was under psychiatric treatment. Yet some people were convicted or pleaded guilty on that type of evidence. Subsequently, some of the counsel, realizing the nature of his evidence, did not plead guilty, but proceeded and this is the result of some of the cross-examination that took place. Of course, at a later time the Crown attorney, I think, refused to call him as a witness because he said that he was suicidal.

I might point as well that this young witness, during the course of giving his evidence, was charged with car theft. The charge was withdrawn again him. It was just a situation where basically all of these charges relied on the evidence of this one witness which, in my opinion, in view of his statements in court and in view of the fact he was under psychiatric treatment, was totally unreliable. It was on the basis of that sort of evidence that people lost their reputations.

Whether they had homosexual tendencies or not, one has to be concerned about that. At the same time, I might point out that apparently when he was under psychiatric treatment the Royal Ottawa Hospital did not advise the police right away that he was. When they did advise the police that he was under psychiatric treatment, the police told the Crown attorney's office and the Crown attorney's office just proceeded on as though there was no problem. The other situation as well is that the Crown attorney's office had allocated these cases to four or five different counsel, instead of one counsel, so there could have been consistency in their approach in the prosecution.

And so the whole sordid mess, where you started off with white slavery, a sordid crime, really turned out to be a PR job. I'm really concerned by the role taken by the police, to have released some of this evidence that went into the paper prior to individuals even having their trial. Apart from the name given of the individual, why would they talk about a sordid crime, about the fact that there were 200 names involved, young boys were involved and this type of thing? The role of the police in having given that evidence made it very prejudicial to certain accused who subsequently were charged.

I'm concerned about the role of the press in this, having played up this case. I suppose the press in many cases are looking for a front-page story but when you're dealing with the reputations of certain individuals, I really think that the press in this case did a disservice to the community. I'm talking about the press, whether it be the written press or television or otherwise. In fact, the press towards the end of this whole affair sort of turned against the police, because they felt they'd been had, that the statements made by the police at that time were not substantiated by the evidence.

I'm concerned about the role of the Crown attorney's office in the approach here, prosecuting cases while suspecting or knowing that their witness is under psychiatric treatment. The Crown attorney's office in Ottawa allocated it out rather than taking a cohesive approach and giving it to one individual who could have dealt with all defence counsel on this, and established some element of fairness per each accused as each was accused. The Crown insisted on proceeding with these cases, knowing that this witness was under psychiatric treatment and that his evidence was unreliable, leading to suspect maybe that he'd been coached.

I'm concerned about the role played by the Royal Ottawa Hospital in not advising the Crown Attorney's office or the police that they had a major witness who was under psychiatric treatment and that maybe his evidence was questionable. At the same time as some of the psychiatrists at the hospital were treating the accused, they were treating some of the witnesses. I shouldn't say some of the accused. They were treating this major witness I should say and some of the accused at the same time. You can see these doctors coming in and giving evidence in relation to the weight that should be given, let's say to this evidence of this witness, where at the same time they were giving it

in front of an accused who had been treated by that same doctor.

It was a terrible conflict going on there. Then throughout this situation nothing was done. It's hard to comment about it. The reason I've raised it after it's all over with is that it was before the courts and one had to be careful that one didn't prejudice the cases of the accused. We know here that we should be careful when a case is before the courts that we don't discuss it publicly so as to jeopardize either the Crown's case or the accused.

Subsequently what happened is that one of the accused, Duthie, the press individual, had made complaints to the Ottawa police department that he'd been assaulted at the time that he was questioned by the police. Nothing was done, of course, for a year. Then the OPP went down and made an investigation and subsequently two officers, two detectives of the Ottawa police department, were charged.

Hon. Mr. McMurtry: Mr. Edwards had another interjection to which no one responded, which was at our direction, by the way.

[4:45]

Mr. Roy: Okay, I'll just finish my statement here. But anyway, two officers were charged and they had to be charged with assault causing bodily harm because the six months was over the limitation period for common assault, which in my opinion was the proper charge to have laid.

In any event these two officers were charged with assault causing bodily harm, which is an indictable offence and not affected by the six-month limitation, and were subsequently acquitted. But the OPP report was never published. We don't know what's in that report—what comments they have in this particular report about the role played by the Royal Ottawa Hospital, or the press, or the Ottawa police, or the Crown attorney's office, or anything of this nature.

I could go on and talk about a variety of things that were wrong in this case. For instance, a whole series of these accused were charged based on statements that they had given thinking that they were going to be witnesses. Subsequently they turned out to be the accused. The Crown or the police were trying to use these statements that they had obtained from them as witnesses and then they were accused. And, of course, a lot of these things were thrown out by the courts.

The point I am trying to make simply is this: Here you have a situation in the Ottawa community where you talk about a major vice ring—that there is really something sordid going on in the community, and that's what it starts with. A series of people are charged, their reputations are damaged, irreparably damaged—in fact, one of the individuals commits suicide. When something goes wrong like that, if the police did not have that kind of evidence against them, then it was the role of the courts, the Crown attorney's office, to sort of balance that situation out. I have no evidence that this took place in this case.

I am really concerned about the whole approach, in view of the fact that during this whole period of time the mayor of the city of Ottawa was, if I recall, talking about his concern about sex, and bawdy houses and all this sort of thing. So you have to appreciate the whole atmosphere in the Ottawa area; there was concern that the city was being overrun by all sorts of schemes, or sex scandals, or sex rings, white slave rings, or whatever you might have called it.

What I am saying basically is that surely the community, having been faced with this type of barrage and having seen this type of publicity given to these cases, is entitled to know what the heck went wrong in this case. What happened that a case can take off and receive all this publicity, that all this evidence can get out, that all the reputations of these individuals can be damaged, and yet there seems to be nothing done within the administration of justice, the Crown attorney's office, or the courts, to remedy what in fact was an abuse? I tell you I really suspect that this is clearly a case where at least in the Ottawa area, you have to wonder whether there has not been a miscarriage of justice for these individuals.

A number of people have asked for an inquiry about this. I think the Solicitor General (Mr. MacBeth) turned down an inquiry about the situation; it's no less than I can expect from him. But I would have thought that your office—you were asked about it as well. I appreciate that it's the Gay Liberation group I think that asked for it—and, you know, you wonder about their crying about all sorts of things that go on in relation to some of their members, that maybe their credibility is questionable.

But some of us have asked for it, and I really think it's ironic, for instance, that the police would like to see an inquiry. The Ottawa police and their counsel have mentioned it as well. The defence bar in Ottawa would

like to see an inquiry into what went wrong. Because if we allow that type of situation to go on, today we are taking on the gays; who are we going to take on tomorrow? Who are we going to accuse, a whole ring of certain people?

I get concerned—I really get concerned about this, and so I have serious questions. I leave it with you. I know you have a file on it and possibly you will respond and you and I can exchange certain things on it, but basically that's the way I would like to lay out the case.

I am not the only one talking that way. Let me read you, for instance, an editorial in the *Ottawa Citizen* of May 25, which states:

The vice case was mishandled. Too many serious questions remain unanswered about the way the Ottawa police and the courts handled the case last year of men and juveniles involved in the male prostitution ring. The public deserves to know a lot more about the delivery of justice in these cases, yet details about the investigation by the Ontario Provincial Police have not been disclosed.

[It goes on:] It appears that a star witness, a juvenile with a background involving drug use and psychiatric problems, had a poor memory and he was coached in his statements. His competency was not questioned until most of the trials were, in fact, completed.

It also appears that some of the 17 accused gave statements to police in good faith and then were charged with various offences. Such trickery is intolerable. No action has been taken in one year on a complaint by one of the accused who alleged police brutality.

Well, I guess that was prior to the charges being laid.

A public inquiry is in order, but despite several calls for this from the opposition, Ontario Solicitor General John MacBeth, responsible for the policy, and Attorney General Roy McMurtry, responsible for the courts, have taken no action.

That was Tuesday, May 25. Again, on August 28, there was another editorial, headed "Mark Against Justice," which states:

If there is nothing to hide in a report detailing city police handling of the homosexual vice charges, why do Ontario Solicitor General MacBeth and Attorney General Roy McMurtry and Ontario Provincial Police continue to hide that report?

This is what the community is left with in the Ottawa area and I would like to have some comments from you, Mr. Attorney General, about your views. Maybe some of your people here have some comments to make about this whole situation, which leaves me very concerned because, as I have mentioned before, if today we take on the gays, we abuse people and we let the Crown attorney or the police get away with something like this, tomorrow who is it going to be? I think there is an abuse of the process in relation to homosexuals or prostitutes or anyone else, that's the first foot in the door for an abuse of process to all citizens in this province. I am concerned about that and I would like to have your comments.

Hon. Mr. McMurtry: Yes, I would be more than pleased to comment, Mr. Roy. I am quite familiar with many of the details of this matter as I was personally involved in a number of discussions related to it and I think I can be of assistance to you in perhaps giving you a more total picture.

The charges were laid, I believe, in March of 1975 and, of course, it would be better than six months after that that I may have first heard some comment in the Legislature and I don't really recall when that was. I know the matter was raised. Whether it was the fall of 1975 or the winter of this year, I am not sure. But, in any event, I should say there are certain aspects of the conduct of the police that I can tell you were and are of concern to me, and it is not my role in my response to attempt to justify all the conduct of the police. As you will see in a moment, our role was somewhat to the contrary.

I will attempt to place the whole matter in a little more total context. Certainly, there was an element of tragedy involved, in relation to some of the people who were charged, and certainly the unfortunate individual who chose to take his own life. That, of course, is obviously a tragedy of some dimension. At the same time, in dealing with this, as far as the police were concerned—and of course, I cannot speak for the police; they do not operate under my direction or under the direction of the local Crown attorney—there were a number of young children who were terribly exploited by some of these people.

When you talk about the sordid affair I assume you would like to include the facts that young male children being exploited in this manner by adult persons certainly is very much a form of sordid activity. I know that your emphasis is on the other matters and I

assume that in no way do you wish to suggest that that is a sordid dimension to the whole unhappy affair as well.

I could sort of deal with it roughly in chronological order and then I can hear from you further if there are some things you want some further clarification on.

First of all, the matter of the publicity. I have made it quite clear from the moment that I first became aware of this matter that I was most unhappy about the idea of the police holding press conferences and revealing this type of information, or giving statements to the press. There is no doubt that they were under tremendous provocation to do so, because as you know, as you have already pointed out, in the initial steps the press were playing this up very largely as a sordid affair because it involved these youngsters, and the police were under enormous pressure to react to what was being done and the nature of the evidence they had.

I am advised by the local Crown attorney, who is well known to you, that he objected to the police revealing any of this information in the most vociferous fashion. That is what he told me. I had a long discussion with him on this case—I can recall three distinct occasions, one in Ottawa—because of the concern being expressed in Ottawa and at no time did the Crown attorney's department endorse the fact of this pre-trial publicity being released.

I have to say to you personally, if you want to get philosophical for a moment or two, that quite apart from the matter of any pre-trial publicity—which I am very opposed to—I have serious questions in my own mind about the release of even the names of the accused. It has been held by a higher authority, perhaps, that in the balance of all the interests the community interest is best served by at least releasing the names and, in many cases, it is in the interest of the accused person. That has been the policy and even to that limited extent, I can tell you it troubled me although it is generally considered it is in the public interest to release the names.

I agree with you additional information is not necessary and is not desirable. Again, I repeat the local Crown attorney advised me that he objected very strenuously to this.

In dealing with the young man who was the principal witness much has been said about the fact that here the Crown attorney sought to introduce a witness who was under psychiatric care and, therefore, it should have been known that he was an unreliable witness. I would like to point out this fact which may or may not be known.

First of all, my information is that he was not under psychiatric care at the time of the arrest. That is my information. Secondly, this young man was cross-examined on a number of occasions. It was the view of more than one psychiatrist that the extent to which he had been subjected to cross-examination on a number of occasions certainly had a lot to do with his mental state. It is part of the justice process that each person has the right to cross-examine and this certainly led, I am advised, to his requiring psychiatric assistance.

The local Crown attorney was concerned about this and the reliability of his evidence because of the psychiatric treatment. He went to the trouble of having him examined by an independent psychiatrist to ascertain whether or not an opinion could be expressed as to whether or not this young man was probably telling the truth, notwithstanding the fact he was under psychiatric care. The report of the independent psychiatrist given to the Crown attorney was that in his view this young man was telling the truth. That was an added precaution taken by the local Crown attorney and I think it is to his credit that he did so.

I think I can remind you, Mr. Roy, as someone who is quite experienced in the courts, who has served as an assistant Crown counsel, that if criminal charges were going to be laid only when the victims were people who were of totally sound mind and body, as it were—particularly sound mind—a number of charges would never be laid. These are often the very people who are exploited by persons such as some of those who were engaged in this homosexual ring.

The fact that they may not be entirely stable individuals—one, of course, has to wonder about any young man who would allow himself to be exploited; one might assume that he is not entirely stable. If that were going to be a factor which would lead our courts or our Crown attorneys never to rely on that evidence a lot of criminal conduct would go unchecked, certainly unpunished.

In any event, as I've indicated to you, that was the approach of the local Crown attorney, John Cassels.

[5:00]

Regarding the matter of Mr. Duthie's complaint about the abuse suffered by himself at the hands of the police, it was my decision that we request the OPP to make an independent investigation after receiving a report from the Ottawa Police Department. I can tell you that, after the investigation

was made, it was our view that charges should be laid against these police officers. Without going into details, I can tell you there were very strong representations made on behalf of the Ottawa Police Department that were very critical of the conduct of my office for not only pursuing this investigation but directing that the charges be laid. Notwithstanding this very strong representation, to put it mildly, we came to the decision—the director of Crown attorneys specifically came to the decision—and directed that these charges be laid. I can tell you there was—well, I think you appreciate the manner in which this news was received by the Ottawa Police Department.

As you know, the Ottawa Police Department may well want a public inquiry because they feel that their reputation has been very unfairly abused. It is my view that if I encouraged this public inquiry—and it was not my decision; the Solicitor General has the conduct of the police—I would be lending my influence, such as it was, to protracting the confrontation between the so-called gay community and the police. I have had considerable experience with public inquiries, and it has been my experience that this type of inquiry, where there are sides with varying differences, usually not only polarizes but hardens attitudes on both sides and serves only to perpetuate the unpleasantness.

To one of our colleagues, Mr. Michael Cassidy, who approached me on this thing, I said, "If you really are interested, Mr. Cassidy, in trying to relieve the unhappy tension or controversy between this community and the Ottawa Police Department, there is one way that at least should be tried as an initial step. I recommend to you—and I have discussed this with the Solicitor General—that you have representatives of the gay community meet with representatives of the Ottawa Police Department in the presence of the Solicitor General with a view to airing their grievances in that type of forum, where there would be an opportunity to try to arrive at some sort of reconciliation."

I can tell you I was mightily disappointed that there was absolutely no effort, at least to my knowledge, to pursue that matter. At least as an initial step, an attempt to reconcile the differing views of those two groups without resorting to a very adversary process would have been very much in the public interest. I regret that at least that was not attempted. Beyond that, as to whether an inquiry should be conducted and if the Ottawa Police Department are really serious about that, again it is a matter where I am

quite prepared to abide by the recommendation of the Solicitor General.

If I may go back a step to this young man who testified, because it has been brought to my attention, I think there were some 10 convictions, pleas of guilty or otherwise; charges were withdrawn at a late stage in the proceedings, simply because a psychiatrist gave a formal opinion that if the young man continued to testify—and this had nothing to do with his veracity—he would attempt suicide and, in fact, had already attempted to commit suicide. The remaining charges were withdrawn because of his mental condition, which was not related to the reliability of his evidence. That was the reason that any remaining charges were withdrawn.

It should also be pointed out that insofar as Mr. Duthie's complaints are concerned, these charges were proceeded with against a police officer, even though Mr. Duthie gave a statement to the Ontario Provincial Police that he did not want the charges proceeded with. But it was our view that it was in the public interest, there having been so much attention paid to these complaints and, of course, we obviously decided if there was a case to be tried that the case be proceeded with. In all the circumstances so far as the conduct of the local Crown attorney's office is concerned and the conduct of the Ministry of the Attorney General, I'm personally of the view that the parties that were involved in this matter conducted themselves in a very responsible manner in an affair which obviously was a very complex, unhappy matter because of some of these other matters that you have raised.

Mr. Roy: I don't intend to be very long but I do want to comment on some of the things said by the Attorney General. First of all, I am in no way—I think you know that—not concerned about the young boys who were involved in this and in no way do I want to give the impression I am not concerned about the fact that some young boys were involved, aged 10 to 17, or whatever in a homosexual ring or were abused by adults. I think it is of great concern to the community and this situation is what got the community so inflamed. But the reason that I put so much emphasis on the administration of justice and what happened to the accused is that there is very little evidence I could see throughout the whole process that indicated there was a whole range of young boys.

I appreciate that you can't use boys 10, 11 or 12 years of age as witnesses. That is one of the problems in sex cases I know. I have dealt with them both as a Crown and defence counsel. When you are dealing with young people of that age first of all, you need some corroborative evidence because of their age. The second problem is that you are dealing with a whole series of events which makes it exceedingly difficult in a charge or even to frame a count to prove the evidence. I appreciate that that is a problem. In no way do I want to condone it, but I really feel that, given the evidence that has come out, I should emphasize the reputations of these individuals involved in this because the package that the police gave us or the publicity that was created about this whole sordid affair didn't really work out that way once the whole process started. For that, reputations were destroyed.

I appreciate you are concerned about what the police are releasing to the press. I get concerned over that sometimes with police departments. I'm not limiting that to Ottawa; I think a lot of major police departments are involved in a bit of a PR job very often in that they are chummy with the press and they are slipping them information here and there. On a situation such as this, there would be tremendous pressure. These guys would be around that police station like flies trying to gather up information. For that reason, I really think that directives should go out because you are in charge of the overall administration of justice. I can say candidly to you I seem to have more faith in your reaction and your approach to justice than I would have the Solicitor General who has jurisdiction over the police.

I really wonder whether directives shouldn't go out that no evidence surely should be released and in fact names should not even be released and that that is obtained from our courts. If the press want to know who is charged with what, they should go down to the court and find out as the charge is read in the courtroom and find out the count. There should be no extra-curricular work or editing going on the part of the police saying this is a sordid crime and this type of thing.

I don't know of any way of stopping it unless you take that sort of approach and cut it off there because police are human beings and they are involved, as I said, in sort of PR work. It is to their best interest to feed something to the press and to give the press sort of a little scoop on something. And I

can't see any way of stopping it. I mean, we have an open and public system of justice and names are given out. If the press want to, they go down to the courtroom—No. 1 courtroom, or whatever courtroom you have here for the arraignment of the accused—and they can sit there and they can see who is charged with what.

I get concerned about it, you know. And it's not only the Ottawa police; the RCMP do it, and all the major police forces do it. They release that type of information, and it's not for nothing they say "Officer such-and-such is involved in this." It's all a bit of PR, and I really get concerned about that.

I would like to say this to you. It's ironic that in this situation, before the problem started with the case there was an extensive public debate—that was prior to the time that you became Attorney General—about releasing names or not releasing names. I recall going on a number of television programmes and talking about this. I took the view that if you are dealing with an open system of justice, you've got to release the names. I don't see any other way of the system working.

The purpose for having a public system is to make sure that there is no hanky-panky going on. The best way to ensure this, is to say, okay, such an individual has been charged and from then on it's public all the way through. That's the only way the public can assure themselves that Joe Mayor or somebody, hasn't wheeled and dealt in the back—that he is charged, and the charge is subsequently withdrawn.

I really don't know how you get around from not releasing the names, but I am not sure that the police should be the ones doing that; I really think that they should pick it up at the courts. I think you, as Attorney General, should issue that type of directive, because after all you are in charge of the overall administration of justice, and the courts are public. They can go and pick up the names and find out what they are charged with there. That's the best way you assure that there is no evidence that prospective jurors or the public read about, so you wonder after a while, are they convicting people on the evidence that they have read in the press that they got from the police, or are they convicting the individual on what they heard in the courtroom?

I would really like to see you, as Attorney General, release that type of directive. I don't think it would be improper, and I think that would be one of the ways of curtailing what happened in the Ottawa situation.

I don't know how you feel about this, and I don't want to leave that point before I get your comments on it, because I don't want you and I just to keep going back and forth on this. What do you feel about taking that position?

Hon. Mr. McMurtry: I think the concern you express is a very valid one and I share your concern. It's something that I think we have to, again, take under advisement, and think through. Particularly because, as you know, there has been a lot of pressure lately in relation to freedom of information generally. I think a number of the municipal councils have stated that they want more information to be made public from police than has been made public in the past. I recall resolutions to that effect—I think it was in the late spring—indicating that they wanted more and more information from police departments.

I am not suggesting this is necessarily in relation to details of offences that are allegedly committed by accused persons. I think the proposal is a reasonable one, but it's one that has to be balanced very carefully with what is generally regarded by the press and the media, which do shape public opinion, that the public has a right to know a certain amount of information as long as it does not prejudice the fair trial of the accused. I think you and I both know from our experience that it's often difficult to know where to draw that line.

All I can say at this time is I appreciate the point that you have made, and I think that we should think it through very carefully as to what extent in such a directive, you could prescribe fairly precise rules in relation to that matter of releasing information.

Mr. Roy: I am just trying to think of the advantages for the police in releasing the names themselves. I am just trying to think what possible advantages there are at that point, apart from PR.

Hon. Mr. McMurtry: There is just one other thing—well, I suppose theoretically on some occasions it's important.

Mr. Lawlor: Mr. Chairman, on a point of order.

Mr. Vice-Chairman: Point of order.

[5:15]

Mr. Lawlor: I have heard this debate before, at almost the same length, in Correctional Services and Solicitor General. I have been attentive and quiet but I would ask for

some consideration that this be not unduly prolonged.

Mr. Roy: With respect, I have never raised it in Correctional Services and the only thing I have talked about—

Mr. Lawlor: You did with the Solicitor General.

Mr. Roy: —with the Solicitor General was—

Hon. Mr. McMurtry: It has been suggested to me by one of my senior law officers that it might be appropriate for the police to be instructed to release to the press simply a copy of the information. There will be no problem with respect to inaccuracy—in order to ensure accuracy in relation to what the precise charge is.

Mr. Roy: That's a good compromise. The other thing I wanted to mention on this was—with respect to Mr. Lawlor's comment I think this is an important point.

Interjection.

Mr. Roy: Yes, it is, but I think I have been extremely tolerant about you and people in your party who often take up a lot of time.

Interjection.

Mr. Roy: No, but don't—I don't think I am wasting time or talking about irrelevancies here. I'm talking about matters of substance and matters of everyday administration of justice.

Dealing with this witness and your comments about him, I appreciate that if I were a Crown attorney, thinking that there were 17 charges and you've got one young witness who is going to be your key witness in all of these, I don't think it would be hard to anticipate that possibly he would have a bad time and would need psychiatric treatment by the time he had finished four or five cases, after he'd gone through the bombardment of serious cross-examination.

I really think that on that basis the Crown attorneys or assistant Crown attorneys should give serious consideration to anticipating that, saying, "Can one individual, especially an individual whose background is in drugs and so on, stand that sort of pressure?" You were suggesting that maybe after proceeding through a series of trials or preliminary inquiries he required psychiatric treatment. That may be so but I think there was some evidence in his background that he had been on drugs and so on. The Crown attorney should have been able to anticipate to some degree that they would run into problems,

and if you had had one Crown attorney taking care of all these cases you might have been able, at some point, to anticipate that.

To carry on with your last point about the 10 convictions—that's the sad part of it. Some people were convicted on this man's evidence. Subsequently it was decided that this man's evidence was—whether he was suicidal—

Hon. Mr. McMurtry: I'm sorry; it wasn't decided that his evidence was unreliable, if that's the point you are making.

Mr. Roy: No, but it was decided not to use his evidence. The point I am trying to make is that you, with your comments, have reinforced my case.

If his evidence was reliable then he is right that he was coached in these statements by the police. He has given evidence in one of the cases that the police helped him pick out dates, names, places and things of this nature.

A Crown attorney, looking at that type of situation, would say "We have to be concerned whether this man or this young boy is giving his evidence or evidence that has been fed to him by the police." That's what concerns me about it.

The other final point I want to make on this case is simply that you suggested—I think you said to Michael Cassidy that he get the police together with the gay league. Well, I'll have no part of that.

Hon. Mr. McMurtry: In the presence of the Solicitor General to attempt to resolve—

Mr. Roy: It's not my role to represent any particular group, whether it's the gays or anyone else, because it is not the gays' interest that I am trying to put forward here; it's the community interest. The gays were very loud and very vociferous and made a lot of noise on this. But that's not my role. I think that when certain individuals—be they gay or otherwise—feel they don't get proper treatment under the administration of justice, the whole community suffers, not just the gay liberation. I would not have been party to that type of agreement.

I am saying basically that I am not only looking at the role of the police. I think there is something questionable about what they did. I think there are some questions about the way the Crown attorneys' office prosecuted these cases or the way these cases were handled. I think the Royal Ottawa Hospital, which is very much involved in the administration of justice, had

a role to play in this and the information that they released to the Crown attorney's office and the police. That's why I wanted someone to look at this whole aspect and not just look at the role of the police in this particular case.

If you had suggested to me that I get the Gay Liberation sitting down with the police and the Solicitor General, I don't think I would have been party to something like that. Because it seems to me that in this whole case it was not only the Gay Liberation who were concerned but the whole community who were originally concerned, thinking that they had this sordid crime going on in their community, and then it turns out it's questionable, with the results, that in fact that was the case.

I am concerned about the fact that if you have a public inquiry you get involved in all of these things, but the fact remains that apparently only the OPP investigated it. We don't know what their report says. We don't know what it comments. And did the OPP restrict their investigation strictly to the role of the Ottawa police?

Hon. Mr. McMurtry: Yes. Only in relation to the Duthie matter.

Mr. Roy: That, to me, is not sufficient. I just really wonder what would be wrong in having a senior official look at this whole aspect and look at the flow—you know, the whole administration of justice, the role of the police, the Crown attorneys' office, possibly the press and the Royal Ottawa Hospital in this whole aspect. That is what I was looking at, the overall aspect of the case.

I've cut out just two of these editorials, but there were a number of them in the Ottawa papers. So, Mr. Chairman, I emphasize again and without wanting to unduly labour this situation I don't think I can unduly labour it enough, when I consider that I think there has been a miscarriage here and I am concerned about that.

I just wanted to mention a couple of other short things here. You were quoted, Mr. Attorney General, as saying, back in August that you had issued directives to your Crown attorneys' office to schedule witnesses and trials to make it easier for witnesses who are coming down. I thought it was ironic that you should do that. Well, I don't say there was no sense or logic in issuing that type of directive, but I thought that the article, or the little clipping that I got here from the Citizen staff, finished off well when it reported that you said:

Witnesses currently suffer from lengthy delays in proceedings and waste time sitting around waiting for their turn to testify. If people keep getting the feeling that being a witness is a frightful experience they will become more and more unwilling to offer themselves as witnesses.

That's very true. I have talked about this before.

The article ends up by saying witnesses are paid \$6 a day and I thought that said it all. You know, we really have to look at that aspect of it. If we expect to get the cooperation of witnesses not only do we have to assure ourselves that we don't get them to waste their time around the courtrooms, but if witnesses take time off from work and things of this nature, that they get \$6 a day in 1976 is a bit much. Can you blame a witness who sees something and scurries off and says, "I don't want to get involved"?

Of course, I could say the same thing about jurors. Do you have any plans for remedying that situation with relation to witnesses and jurors?

Hon. Mr. McMurtry: Well, first of all, I must disagree with you, with great respect, Mr. Roy, when you say it's \$6 a day and that says it all. I have had some 17 years, plus two years under articles, active in the courts and it has been my experience that witnesses are reluctant to come to court not so much because of the \$6—although this is a factor with many of them—it's often because of the fact they are a little afraid of lawyers and the perception they have of lawyers and what they think lawyers attempt to make them say in a courtroom. It's the adversary process that they seem more concerned about than the lack of adequate conduct money.

In this community, particularly in criminal matters—I served as an assistant Crown attorney on a part-time basis in the Metro Toronto area for some 10 years—fortunately most of our citizens have a very real sense of public responsibility when it comes to giving evidence in these matters. We have had surprisingly few complaints about the \$6 witness fee. I think what I just said applies equally to jurors in the jury system.

I check from time to time with our local sheriff here because of the enormous volume of jury cases and he advises me that there are very few complaints. Having said that, I recognize that the witness fee is inadequate and the juror's fee is inadequate and I have so stated on a number of occasions. When our budgetary problems are a little better we will raise it. As to when that will be depends,

I suppose, on the economic climate. Don't underestimate—and I am not just assuming that you are necessarily underestimating it—the public spiritedness of the average witness and the average juror in the Province of Ontario.

Mr. Roy: My colleague, Mr. Singer, suggests that possibly if you get some time before these estimates are over you will let us know what is the total amount of money you have paid to witnesses and jurors, or what percentage of your budget. That might give us some idea of what kind of dollars we are talking about here.

Hon. Mr. McMurtry: We will get that for you.

Mr. Roy: My experience has been that fortunately we have got very public-minded citizens and they do co-operate but that is a serious factor with many people. They say, "Am I going to get paid for the time off I take from work if I come as a witness?" I can recall as a Crown attorney in Ottawa when we used to be selecting jurors, we would go out of our way to make sure that the jurors that we were putting up there were civil servants who were getting their full money and not the Joe plumber who was going to be losing time from work or anything else. I will tell you, because we could stand aside as many as we wanted, the onus was always on the Crown to make sure we did that because we could have a fellow sitting there getting his full salary as a juror and the other fellow losing his \$100 a day or so. I can tell you it really hurts your case. I had a personal experience where I picked an architect one time and he was none too pleased and kept the whole jury waiting there for deliberations for about 12 hours because he was annoyed at being picked on this jury. So I tell you for people working in the courts it can be a problem. It is basically unfair.

Hon. Mr. McMurtry: The difficulty with your architect—and I don't want to unnecessarily prolong this discussion—is that if you bump his pay up to \$25 or even \$50 a day, he is not going to be any happier really or any less unhappy. Obviously there is a limit to which the public purse can be put, but in any event I appreciate your point.

Mr. Roy: How is that project in Sudbury working out with bilingual courts? Can you help me there?

Hon. Mr. McMurtry: Maybe Mr. Campbell would answer.

Mr. Roy: Does anybody know? Maybe you can answer that another time?

Hon. Mr. McMurtry: Mr. Graham Scott, sorry.

Mr. Scott: I think it is premature to be able to say very much about it at this stage since it really came into effect only on June 1. There has really been very little time for us to develop sufficient statistics to give us a reading. We have been keeping a month-by-month watch on the statistics as they develop, but we only have those figures now up until the end of September. You can appreciate in the summer period there wasn't a great deal of activity. Right now they are very small. The figures are here somewhere but it is somewhere in the neighbourhood of 20 out of a caseload of over 1,000 at the moment. So it is rather light but it is a little early to tell or to make any real judgements on how it is working.

[5:30]

Mr. Roy: You will recall that you made a statement in the spring or early summer, I think, that you were going to name so many extra Crown attorneys and provincial judges in the province. Possibly before these estimates are over you could advise us where are we at; how many of those have you named.

Hon. Mr. McMurtry: I said I'd also ask the federal government for additional county and Supreme Court judges.

Mr. Roy: Yes, you got those.

Hon. Mr. McMurtry: Well, not all the county court judges, but all the Supreme Court judges.

An hon. member: There are more county court judges to come?

Hon. Mr. McMurtry: Yes.

Mr. Roy: Perhaps you could let us know, just in numbers, how we are doing there.

Hon. Mr. McMurtry: I think 16 of 26 provincial court judges have been appointed so far, but we'll confirm that. Are you interested in an appointment?

Mr. Roy: No, no; I'm enjoying myself too much here.

Mr. Singer: To Moosonee?

Mr. Roy: Can you tell me about Crown attorneys?

Hon. Mr. McMurtry: Mr. Greenwood advises me we have named 14 additional Crown attorneys so far.

Mr. Roy: Okay, Mr. Chairman. I think I've taken up enough time.

Mr. Vice-Chairman: Mr. Lawlor?

Mr. Roy: Try to be brief, eh?

Mr. Lawlor: Mr. Roy, I shall use you as my model and use my own discretion.

Mr. Attorney General, we are on to your specific vote and, while I think it's perhaps not necessary for me to say this, I say it anyway: When remarks are directed to you, as far as I'm concerned and I'm sure as far as any member of this committee is concerned they are not directed to you in a personal capacity; they are directed at the office and the conduct of the office. I think that should be borne in mind.

Secondly, in estimates I think we should enjoy ourselves to the greatest extent we can; part of that enjoyment, although it should be a very peripheral part, perhaps would be in hard knocks going both ways. That's our job and it's your prerogative, of course, to defend yourself.

The statement you made today in the House deserves comment, but I'll just say a word about it here because I think it's more properly dealt with under vote 1206, where we go into matters of this kind to some depth. May I just say I commend you on it, despite the pusillanimity in setting it over to next spring. Coming to grips with the thing is a forward step—even a forward one.

My only prefatory comment is that it was mucked up by a previous Attorney General—Dalton Bales, to be quite frank—by Dalton insisting, as against the Law Reform Commission recommendations, that the court administrator would be directly beholding to the Attorney General's office. That was a mistake; it has now been recognized to be such. It has caused two years' delay, that ill-advised remark—it was more than that, in fact; it was a proposition on his part. That, I trust, is being obviated today by a very shrewd device, which you are going to run into a good deal of trouble in implementing anyhow but which seems to me to be the only logical way to set up this buffer between yourself and the judiciary and to retain that almost overweening sense of independence in the most picayune matters with respect to their special privileges and dispensations. As I said in my opening remarks, this could happen if they could gain that some kind of religiosity was involved here and that the

ritual must be carried out under the threat of anathema if you should mispronounce the sacred word.

Mr. Grossman: An amazingly good idea.

Mr. Lawlor: Last night, Mr. Attorney General, I heard you on Barbara Frum. You were great, as you usually are—much to my envy, I might add.

Mr. Vice-Chairman: I think you could restate that just a bit.

Mr. Lawlor: I just want to take exception to one thing—and this is true about all cabinet ministers, I guess, and all wretched politicians, as well as even the unwretched kind. Once something is done, they attribute and preen themselves; there's an egomania in the world. The family law stuff has all become "my" legislation.

Now the legislation, basically, as I see it, is pretty good. There are defects, but we will deal with those in time to come, it's fundamentally sound stuff. Now they are "my" profound and sound stuff. What role has the Attorney General in all this? After all, 92.3 per cent is attributable directly to almost innumerable Law Reform Commissions, particularly the vast tomes that we have sitting in our offices, which I was going to bring in here to demonstrate their negligible contribution to all this but I haven't got the strength any more to lug them over the hallway. They are two feet high. There's a study on one side of the fence and there are five or six great volumes of commentary on the studies and decisions. They have done the work—work that every Law Reform Commission in the country, pretty nearly, has done. New Zealand has done it; the Law Reform Commission in Great Britain; the Canadian Law Reform Commission is again stacking up tomes in this particular regard, too. The field has been fairly sifted over. A certain consensus has been reached; there has been agreement on all sides that fairly searching reforms are in order and they have been proposed by people.

Mr. Singer: Mrs. Murdoch did us all a great service.

Mr. Lawlor: Yes, that's perfectly right. She stimulated, as Patrick Hartt himself said, the whole federal law into activity in this particular field. Maybe they will have the good sense to make a retrogressive law—is that the word? No; I meant retroactive, of course. All right.

Here you are and I am trying to caution you in this regard. It is not really your stuff,

your contribution. Your contribution, I estimate at 2.7 per cent. The spread between your input and that of the law reform commissions of the whole world I fill in with parliamentary counsel doing the drafting. They are doing a superb job in that legislation, as I read it in the last days. There is very slick wording in there and very many points. It is hard to do.

All you do is say, "Take recommendation No. 722 and put it into legal language"; and they proceed to do it. You bow your head, raise the salaam to the whole population, and then McMurtry, damn it, becomes again the grand Pooh-Bah.

I want to explain one thing arising out of our opening statement. We had an exchange with respect to the use of the word "peer". By that I meant—I trust you understood what I meant but I am going to make it abundantly clear because somebody has criticized the use of the term; those who hate elitism in all its forms—your peers are here. Your peers are members of this committee, members of this House, who come forward at this particular time. This is the forum and this is the committee that, in a sense, you are beholden to. While you are under no obligation to answer, the better part of wisdom, if not of valour, is to answer as conclusively as you can. To make an appeal to the people of Eglinton to defend you in this particular thing seemed to me to be somewhat beside the point.

You did mention the problem, Mr. Roy, and I have it here, the business of jurors' fees, which certainly should be raised.

Let's turn back to where we started and where we finished the last day. We were on pornography; and I think it goes without saying that anyone of us—let's not posture, for heaven's sake, or take special ointments upon our heads; they may drip down around our ears; the oil surges, you know. We're all against the motherhood issue, but for heaven's sake I was going to say. Many parents have approached me about the local store, etc. I told them, of course, to stop buying there and that they could mention it to the operator.

A great deal of work has been done, but this is an area on which, again, I want to puncture your balloon a little bit if possible. This is an area where you have precious little control, or can act, or have acted and yet spout. I mean, what did you do with the municipal zoning approach which won so much umbrage from a certain newspaper? Have you given a special directive through

your Provincial Secretariat of Justice to the police in this particular regard?

The studies—there's all kinds of stuff done on pornography and obscenity, just as an aside, I was a little surprised to learn that there have been charges of obscenity laid under common law criminal procedures for encouraging the use of drugs—an early case. So the definition of obscenity is very broad, obviously and at the same time terribly vague.

Mr. Singer: Under the Canadian Criminal Code?

Mr. Lawlor: No, it's an English case. Two reports of the Law Reform Commission of Canada are on this particular subject, and hate literature has been discussed, which is fairly much in this same kind of demesne.

I think we could agree to this: That it is very deep and widespread; that it does offend a great number of people; that so far as children are involved there is no question that safeguards have to be erected against its dissemination in this regard; that as far as adults are concerned, in a free society the adults, within limits again, have free access if they so wish.

I also think that the argument from Denmark is ridiculous—namely, that if you expose people long enough and hard enough and to enough trash they become insensible to it. Well I don't want people walking around full of insensibilities. To simply say that a hardening process is taking place and that they reject it for that reason only leaves the citizenry in a worse condition than they were found.

So working through customs, and working through municipal bylaws, and using whatever plenitude of powers you have and not just making public utterances about it is all to the good. By and large you certainly get the support of myself, and I suspect my party, in this particular regard. May I just mention—

Mr. Singer: Excluding Mr. Borovoy.

Mr. Lawlor: Oh yes—well, Borovoy is a civil rights man to some absolute extent.

On your estimates, on page 45 of this blue book, there is a reference, I think probably mistakenly, I just want to make sure. This is a small point. Under 1204, item 2, you make reference—if you take a look at that \$150,000 figure under wages and salaries, it says, "Transfer of 12 articling law students from vote 1201, item 1."

Is that so, or is that some other vote that is being referred to? Because the amount of

money for salaries and wages remains, for a number of years, right on.

Hon. Mr. McMurtry: I turn to Mr. McLoughlin for assistance in this matter, Mr. Chairman.

Mr. McLoughlin: That should have been 1204, item 1.

Hon. Mr. McMurtry: I'm sorry, What?

Mr. Lawlor: Ah!

Mr. McLoughlin: It should have been vote 1204, item 1. At one point we had all of the law students within the Crown law office, and we split them between the Crown attorneys and the assistant commissioner.

Mr. Vice-Chairman: That's really a dreadful error!

Mr. Lawlor: Just to keep the record straight.

I would like you to address yourself for a moment to your role and function and the amount of time you spend on various things with the Provincial Secretariat of Justice. I think this is the only place we can really bring that in. What is your liaison and relationship?

[5:45]

Hon. Mr. McMurtry: As you perhaps know, there are weekly meetings of the policy field.

Mr. Lawlor: You meet weekly no matter what?

Hon. Mr. McMurtry: I suppose the occasional week there's not a meeting, but it's been my experience in the past year that almost every week there is a meeting scheduled with a number of matters that fall within the Justice policy field on the agenda. We meet every Thursday morning.

Mr. Lawlor: Can you give us an idea of the range of the subjects that you've discussed of recent times?

Hon. Mr. McMurtry: It's a very extensive range. Some of these meetings are a committee of cabinet, so I think I'm probably limited to the extent to which I can reveal the nature of the subjects, but legislation that has been introduced in the House first passes through the policy field.

Mr. Lawlor: Do you mean that ball of wax, the whole Justice field, in all its dimensions and ministries? We often find it frustrating—I suppose you do, too—in the course of the estimates, as Mr. Roy had to do a

few moments ago, to have to go over to the Solicitor General and then beyond the Solicitor General to Correctional Services. It's all tied together. Reform in one area almost necessitates a reform somewhere else all along the line. In a way I liked it better with former Attorneys General who held a number of these other posts; but you have to give the troops something to do, so they broke it up.

Anyway, you agree, I take it, that it's very difficult to segment off your role from the other roles.

Hon. Mr. McMurtry: Oh absolutely. I recognize the fact that our role has a direct impact on that of the Solicitor General and Correctional Services to a very large extent.

Mr. Lawlor: We're going to have a fairly lengthy discussion before this is over, as to what is the most critical problem before us, namely, the delays in the court, of which Legal Aid happens to be a subsection.

By the way, incidentally, this is a subsection too much emphasized by your honour. Too many times you say that Legal Aid is the substantial culprit in this whole thing. We'll discuss that; and not only that but what causes it and what, in depth, are solutions to it. There are many, and many of them involve these other ministries. Do you speak to them in these terms with respect to court delays? When you talk to the Solicitor General, do you ask what is the police function and how have the police acted? And I'm sure they have; I have no doubt about it and we'll discuss it. But assuming that they do and have added their grains of salt or sugar to the fact that this thing is all tied up, is that the kind of thing you discuss?

Hon. Mr. McMurtry: Yes. I'm quite happy to discuss it here. I think you realize that insofar as the Ministry of the Attorney General is concerned, we're kind of, as the Deputy Attorney General sometimes states, the cheese in the sandwich. We have the police on the one hand who are responsible for introducing cases into the justice system by reason of the number of charges they lay, and of course that has a very great impact. We don't attempt to control the number of cases or charges the police lay at any given time. Obviously they're exercising their discretion, and the manner in which it's exercised has an enormous impact on the justice system.

That's the front end. The back end is the correctional system. How the police exer-

cise their discretion in laying charges has a very direct impact immediately on the correctional system, as you know, by reason of pre-trial detention. Then our courts have an impact on that system in relation to sentencing.

Mr. Lawlor: In order to clear up this backlog, an intensive colloquy will have to take place between you and these various ministers. I think your job is cut out for you; to set a fire under John MacBeth to start with and maybe he'd have to counteract and set one under you, too.

The final question for this particular vote, as far as I'm concerned, is on these consulting services under your particular item 1. I heard a few moments ago that \$20,000 was attributable to Mr. Clement. Are you using consulting services for your direct purposes?

Hon. Mr. McMurtry: When I became minister there was a consulting firm which was used for research and other projects, I inherited that. At a point relatively early last year I determined that the cost of the service, quite frankly, as far as I was concerned, was greater than the value received and I instructed the ministry to discontinue the service.

Mr. Lawlor: Good.

Mr. Roy: Could I ask one question on the thing Mr. Lawlor raised, as a point of information from you? Are we going to get a chance in these estimates at some place to discuss Legal Aid? Where can we discuss it?

Mr. Callaghan: Yes, in 1202. It's a transfer payment usually.

Mr. Vice-Chairman: Mr. Roy, it's not under this particular vote.

Mr. Roy: That's what I wanted to know because I don't see it mentioned. Is it under 1202?

Mr. Callaghan: It's under 1202. Legal Aid is just a transfer payment from our ministry to the Law Society so it's shown in the administrative—

Mr. Roy: Programme administration?

Mr. Callaghan: That's right.

Mr. Singer: Where would you want to bring it up under that matter? Under which vote? Civil matters, civil juries?

Mr. Callaghan: Juries?

Mr. Singer: Civil juries, yes; as distinct from criminal juries.

Mr. Callaghan: The jury system or civil actions?

Mr. Singer: The use of juries in civil actions.

Mr. Callaghan: Under the Crown law office, civil; I think that's 1203, isn't it?

Mr. Singer: All right, I just want to get it.

Mr. Moffatt: Mr. Chairman, I want to raise a couple of items which I think were touched upon earlier. I don't know where to proceed with them, so I'll attempt to explain the situation. Mr. Roy referred to the famous case in Ottawa in which a number of witnesses were involved who were under 16. As sort of a tangent to that, I wonder what the policy is with regard to the calling of witnesses in cases in which the defendant has signed a statement and a mass of evidence has been gathered with which the case can proceed to court. At some point, under-age witnesses are called. It seems to me they're called for no real purpose other than to be present during the proceedings.

During my time as a school principal, we had a number of occasions, particularly in rural parts of Ontario, when questions of indecent exposure and that sort of thing occurred. We used to spend a lot of time with the kids in the schools attempting to make sure that when such a thing occurred they would tell their parents and they would inform the authorities properly, so that the person could be dealt with in the appropriate fashion.

In at least four cases—one of them I'm particularly concerned with because it involved a member of my family—the kids were taken into court but there was no real purpose in those kids going to court other than they were pretty well embarrassed. I think what happened was they decided that if anything of a similar nature ever occurred again they'd keep their mouths shut.

I wonder if there is any way in which some common sense can be brought to bear, with a directive or whatever, so that when it's not absolutely germane to the case these particular young people are not brought into court. I know of one particular instance when three girls sat through about two weeks of court proceedings. They were 10 and 11 years old, and there was no real purpose. They were never called. They just sat for all that time and I think they were totally embarrassed. The whole question of justice, to their minds anyway, took on a whole new dimension that they really didn't need. Is there an area where that sort of thing can be dealt with, sir?

Hon. Mr. McMurtry: First, there are two issues involved. The Crown would not normally, in most cases, have the young people there unless they were going to appear in court, either as a witness themselves to give perhaps unsworn testimony, or perhaps to be identified by another Crown witness who may have seen the occurrence. Also, I would point out to you that in some cases the defence counsel requests that the children who are germane to the charge be present in court and that could lead to their appearance. I would think that Crown counsels, normally speaking, or hopefully, would be very concerned about the welfare of the young people and would make their court appearance as brief as possible and make every effort not to prolong the appearances, because obviously it can be an unsettling experience. I don't know if the director of Crown attorneys could add to that. Mr. Greenwood?

Mr. Greenwood: Mr. Chairman, I really don't think I could add to it. I think you have to consider the individual case. The witness may be required because he or she would have to be available for cross-examination by defence counsel. As the case proceeded, the defence counsel may say that he would not require the witness, but certainly I agree the children should not be kept in the court if it is quite obvious their evidence will not be required. If that is occurring, I think a directive should go out to the Crown attorneys that such a practice should be reviewed and great care should be taken to ensure that it does not happen. I think it would be most unusual, quite candidly, but there may be some instances where it would occur.

Mr. Moffatt: I appreciate that. I hope a directive will go out. Just to set the record straight, in one particular case that I know about, the child who was involved was questioned thoroughly when the incident was reported by a policewoman from the OPP. The person had already been apprehended and they had a number of charges pending. They assembled this great number of young girls in the courtroom and then they were ignored for the entire proceedings. They sat there and listened to the testimony and nobody ever said "You can leave", or "We will need you next week" or whatever. I think, as you just pointed out, a statement to say that the future goodwill of these people toward the workings of the law is really involved in this kind of case and they should be dealt with in a fairly appropriate fashion. If such a statement or some directive will go out I

think that would be of great use to those people.

Hon. Mr. McMurtry: Yes, we will follow through with that.

Mr. Moffatt: Thank you. The last point is very brief. I had a constituent of mine who went to court a number of months ago to claim a sum of money which was owed him. The courts apparently found in his favour and the judge has not handed down the decision. I, against the advice of certain people, phoned the judge and just asked him when he would be prepared to do that. The judge was very co-operative and promised me faithfully that the decision would be handed down and the person would be notified within the following 24 hours. That was last February. I phoned again in March after the constituent came to see me again and asked if I would call once more. I did. I was promised it would be done on Monday. I called last week again to ask when the judge would find time to issue his decision in that particular case. I don't know what's going on there, but this one gentleman is extremely concerned that justice in principle is not being served him. I think that those kinds of things should not occur in the courts and a suitable procedure should be set up so that when a decision is in fact possible, that it be rendered as quickly as possible.

Hon. Mr. McMurtry: I think we try to make it known generally, when these inquiries do come in—I mean, for example, if any members of the Legislature have problems of that nature, we would be more than happy if you would draw it to our attention and our practice usually is then to draw it to the attention of the senior judge or the chief judge of the court involved, and the chief judge then will speak to the judge and normally that is sufficient to expedite the decision. We will not call the judge ourselves. I will not call the judge, but we operate through the chief judges and norm-

ally that is effective. It has been effective in the past.

[6:00]

Mr. Moffatt: That is probably so. I recognize the difference.

Hon. Mr. McMurtry: I should just interject that counsel themselves, of course, can go to the judge or request the chief judge, but counsel are generally reluctant to do that because—or any one counsel is reluctant to initiate it—because often the other counsel may be quite happy with the delay for perhaps the wrong reasons, and obviously the counsel who complains sometimes fears that his complaint may not serve the best interests of his client; but we usually have had some degree of success by using the chief judges and that is part of their role.

Mr. Moffatt: I recognize, sir, that when a member asks a question or sends a note to the Attorney General the judge would probably act with great alacrity, but I don't want to get into the position, though, of having gone over the head of those people. It seemed to me that the most expeditious way to deal with it was a simple phone call, but I have obviously learned in this particular case that that is not an effective way and I will be pleased to take your advice if it should occur again. Thank you, Mr. Chairman.

Mr. Lawlor: There are rules about that, certainly for County and Supreme Court judges.

An hon. member: One year.

Mr. Lawlor: Of course the alternative is pretty grim. You have to have a retrial.

Mr. Vice-Chairman: It is now 6 o'clock. The committee will recess until 8.

The committee recessed at 6:01 p.m.

CONTENTS

Thursday, October 28, 1976

Law Officer of the Crown programme	S-2339
Attorney General	S-2339
Recess	S-2359

SPEAKERS IN THIS ISSUE

- Breaugh, M.; Vice-Chairman (Oshawa NDP)
Crossman, L. (St. Andrew-St. Patrick PC)
Lawlor, P. D. (Lakeshore NDP)
McMurtry, Hon. R.; Attorney General (Eglinton PC)
Moffatt, D. (Durham East NDP)
Roy, A. J. (Ottawa East L)
Sandeman, G. (Peterborough NDP)
Singer, V. M. (Wilson Heights L)
- Ministry of the Attorney General officials taking part:
Callaghan, F. W., Deputy Attorney General
Greenwood, F. J., Assistant Deputy Attorney General, Criminal Law
McLoughlin, B. W., General Manager
Scott, G. W., Director of Courts Administration and Inspector of Legal Offices



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Government
Publications

Legislature of Ontario Debates

SUPPLY COMMITTEE—1

ESTIMATES, MINISTRY OF
NATURAL RESOURCES

OFFICIAL REPORT — DAILY EDITION

Third Session of the 30th Parliament

Thursday, October 28, 1976

Evening Session

Speaker: Honourable Russell Daniel Rowe

Clerk: Roderick Lewis, QC

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CONTENTS

A list of the speakers taking part in the debates in this issue of Hansard appears, in alphabetical order, at the back of this issue.

Daily contents of proceedings also appears at the back of this issue. Reference to a cumulative index of previous issues can be obtained by calling the Hansard Reporting Service indexing staff. (Phone 965-2159)

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LEGISLATURE OF ONTARIO

SUPPLY COMMITTEE

THURSDAY, OCTOBER 28, 1976

The committee resumed at 8:07 p.m.

ESTIMATES, MINISTRY OF NATURAL RESOURCES (continued)

On vote 2302, land management programme; items 2, 3 and 4, forest protection, air service and extra firefighting:

Mr. Vice-Chairman: I see a quorum. We have been discussing air service at some length, so if it's okay with the committee we can deal with items 2, 3 and 4 all as one.

Mr. Haggerty: Items 2, 3 and 4?

Mr. Wildman: It's all right with me.

Mr. Vice-Chairman: It is okay with you, Mr. Haggerty?

Mr. Haggerty: Yes. Extra firefighting and resource access—I don't think I'm quite clear on that.

Mr. Vice-Chairman: There has been quite a bit of discussion about it, so possibly it would save some time—

Mr. Haggerty: For the three areas then, not just—

Mr. Vice-Chairman: Yes. I think the minister would like to make a few remarks, and then Mr. Wildman.

Hon. Mr. Bernier: Mr. Chairman and members of the committee, before you is a brochure entitled *Coping with the Great Lakes*, put out by Environment Canada and the Ministry of Natural Resources. I want to draw to your attention the atlas that's before us here on my desk to the left. It's the Canada-Ontario Great Lakes shore damage survey, with which the member for—

Mr. Haggerty: Erie. That's not Pennsylvania either.

Hon. Mr. Bernier: —Erie, is, I am sure, very familiar. You might want to glance through it and see the results of two or three

years' work by both levels of government at a cost of roughly \$1 million. It will give to the public, to the municipalities and the conservation authorities, to both levels of government, a tremendous amount of data, as it relates to the Great Lakes' shoreline.

If you will look at the brochures you will see the area that this survey covers, from Cornwall clean through to the lower depths of Georgian Bay—

Mr. Haggerty: You covered that area, didn't you, Bill?

Mr. Ferrier: Ray, I was wondering if you would want to tell us about that inspection by the land drainage committee which you took on Lake Erie.

Mr. Haggerty: No, I can well remember that air trip.

Hon. Mr. Bernier: But in this atlas, which is available to the public in either this size or a smaller one, at a price—I may ask Walter Giles to give the committee a brief outline as to the amount of work put into it, and other little pertinent facts that you may want to relate to your own people back home. Walter, would you just comment on it please?

Mr. Giles: Thank you, Mr. Minister. I think the brochure outlines very well in summary form the report that was produced that goes with that atlas. It does go back to the storms of 1972 and 1973. At that time it was decided that we really had very little information about the shoreline of the Great Lakes and should do something about it in order to have something to relate to when planning future management of the Great Lakes shoreline. So the two levels of government, through Environment Canada and our ministry, embarked on a complete survey of the coastal zone roughly from Kingston around to Port Severn, the erodable and flood-prone areas of the Great Lakes. By that we mean we really skipped the Bruce Peninsula because it was not a problem in that area.

So we now have fairly detailed information about the shoreline of the Great Lakes. We

believe that this information can be of great value to the municipalities in their official planning and zoning. Perhaps we now may avoid in the future some of the problems that we have had in the past, where, through lack of knowledge perhaps, people built in flood-prone areas around the Great Lakes or in areas that are eroding at a fairly rapid rate. Obviously you don't like to see your backyard disappearing and your house eventually tumbling in. So this is really a basis now of information for future planning, and we are conducting a fairly, we hope, effective public information programme that will put these facts across to the people in these vulnerable areas.

If there are any questions we can deal with them later or now.

Mr. Haggerty: How long will the provincial assistance be available to municipalities in particular? The 80 per cent subsidy and that—how long is that programme going to continue?

Mr. Giles: This is a programme which is now and has been all along, a Treasury, Economics and Intergovernmental Affairs programme, and it is strictly applicable to the Great Lakes. I don't know that there have been any time limits put on it, per se. Obviously the need will decline as the waters eventually go down, but certainly it's still in effect as far as I know.

Mr. Haggerty: What are the present levels of Lake Erie and Lake Ontario?

Mr. Giles: Lake Ontario is lower than the highs of 1972 and 1973, but Lakes Erie and Huron and St. Clair are within about a half a foot of what they were in 1972-73.

Mr. Haggerty: But in Lake Ontario there is a noticeable drop in the level.

Mr. Giles: That's true.

Mr. Haggerty: Why would Lake Ontario be lower than, say, the other lakes?

Mr. Giles: Because there's the opportunity to control Lake Ontario through the outlet at Cornwall. Through good management of the waters in that area, and having in mind the risks to Montreal in passing large flows through, the Seaway Authority has been able to draw down Lake Ontario to the extent that it has. There is no such control on Erie, St. Clair and Huron, so we've had to deal with the natural levels, in effect, and these have just simply not come down because of the precipitation-evaporation proportions in recent years.

Mr. Haggerty: Are the levels of Lake Erie maintained at a high level by the power authorities? I'm talking about the United States, the New York State power authority and the Ontario Hydro.

Mr. Giles: The levels on Erie cannot be maintained at any given level through artificial means; they're natural levels. The only thing that happens at the end of Lake Erie is that the water can be diverted; it has to go through, somewhere. It either has to go through the power plants or over the American falls or over the Canadian falls. And the structures that you see out on the Niagara merely divert the water, they don't hold any of it back.

Mr. Haggerty: They can control it though to a certain level there, the river itself.

Mr. Giles: They can divert water through one of those four channels that I indicated—the American power channels, the American falls, the Horseshoe Falls, or the Canadian power canals. It has to go through and there is really none being held back.

Mr. Haggerty: Are you sure on that now? Are you positive?

Mr. Giles: It can neither be passed faster nor slower than the natural flow, but it can be diverted into one of those channels.

Mr. Haggerty: I'd suggest that perhaps you should be looking at it at certain times of the day. If you went down there in the evenings you can almost count every rock out there above the Horseshoe Falls; in the daytime you notice that the river level comes up a little bit.

Mr. Giles: They're diverting it through the power plants at that time.

Mr. Haggerty: They can regulate the flow of that river there with the control dams that are there now. Of course, if they open up the tubes why they can take it all off the river if they want to. So Hydro can certainly control the levels of the river there and Lake Erie.

Mr. Giles: I'm informed by the engineers that it's not really a control. Now, one way that they could change it would be to deepen the channels, which would be a fairly expensive operation, one which was examined by the Great Lakes Levels Board study under the IJC auspices, but it was considered that the amount of control that they could actually effect would be so little that it was not justified as an expense on a cost benefit—

[8:15]

Mr. Haggerty: But they can regulate it, because I know coming over Burlington Bay you can tell that the level of water has been lowered there. They have a kind of lagoon that they're building there, and are using a sand-sucking device to backfill and reclaim the land. Early in the spring and part of this summer, the rocks were almost covered. You go by today and you would think the rocks are sticking out almost four feet. That's the crib that they have.

Mr. Giles: This is at Burlington?

Mr. Haggerty: Burlington—that's right.

Mr. Giles: This could be more related to—

Mr. Haggerty: Lake Ontario.

Mr. Giles: —the ability to remove the water from Lake Ontario perhaps than it would be from the flows in from Erie.

Mr. Haggerty: I think there's advantages there both to Ontario Hydro and the Great Lakes shipping. Some of the ships that are constructed today in the Great Lakes have quite a draught on them—maybe 32 feet or something like that. I suppose as you get down along the St. Clair River area if they didn't have some way to keep the water level up, some of those ships would never get up there.

Mr. Giles: As I understand it, the limiting factor on the ships relates to the draught in the canals.

Mr. Haggerty: At the Welland Canal it is about 32 feet or something like that—the new channel is. But I don't think the depth is that great say up along Windsor and in the St. Clair River system. I think there are government bodies responsible for the level of Lake Erie. You can talk about all the rain that has fallen in the past year or so, but if it's at that level there, the rainfall would also be in Lake Ontario and it would be noticeable there too.

Mr. Giles: The fact is the flows can be controlled out of Lake Ontario but not out of Lake Erie.

Mr. Haggerty: They can control it at Lake Superior too.

Mr. Giles: Lake Superior, correct. That's right.

Mr. Haggerty: They open the—

Mr. Giles: The only two points of control are at the end of Lake Superior and at the end of Lake Ontario.

Mr. Haggerty: I am sure on the Niagara River they can control it to a considerable degree for the benefit of the generating station.

Mr. Giles: Yes, they can control the direction of the flow but not the amount.

Mr. Haggerty: You're twisting it around. We could argue this point all night.

Mr. Vice-Chairman: Okay, can we get back to items 2, 3 and 4?

Hon. Mr. Bernier: Thank you, Mr. Vice-Chairman, for allowing us to bring that very important issue before the committee.

Mr. Wildman: Mr. Chairman, I would like to get back to talking about fire protection and some of the equipment involved.

I realize that this summer there was, as you have pointed out and as members are well aware, a very serious situation where the firefighting task was much greater than normal in the north. I understand that during discussion earlier this afternoon, you stated that MNR's first priority in a forest fire situation is protection of life. If there is a town that is threatened by a wild fire, the crews are put into action to protect the homes and help evacuate if necessary, and so on.

But I am concerned about when MNR fire crews are busy fighting a forest fire and there is a threat to a small community, if it is an unorganized community and does not have the wherewithal to help protect the property in the town. For that matter, if MNR crews are busy somewhere else fighting a fire, and a small fire occurs in a town which has nothing to do with a forest fire, obviously it is very difficult for the ministry's crews to get back to fight a fire that has nothing to do with trees. However, I know on most occasions when it is possible for them to help, they do.

This is a problem throughout the north wherever there is an unorganized community. Because the communities are small, they don't have the kind of organization or funds to purchase equipment. A number of these communities have organized volunteer fire departments. The people in the town are taking a responsible approach. They're trying to protect themselves and to learn the techniques of fire protection so they won't be just dependent on the ministry.

However, there are no funds available from any ministry that I know of to help them. There are offers by the Ministry of the Solicitor General and by the Ministry of Natural Resources to help train people in

forest fire techniques and fire protection techniques but there are no funds available to help them acquire the equipment. I have had a number of requests from communities in my riding for government aid in helping them to obtain pumps, hoses and so on to fight fire but my approaches to the government have been to no avail really.

I am thinking specifically of the small community of Oba, which is 40 miles east of Hornepayne on the CN line and is very hard to reach by road. You pretty well have to have a four-wheel drive vehicle. You can't reach it by road in the winter-time. It's very isolated and is a very small community. If I have the permission of the Chair, I would like to range a little wider than this ministry to show the problem faced by this community and how it relates to Natural Resources, but I will be talking about some of the other ministries of this government.

First, I approached the Ministry of the Solicitor General because the fire marshal's office is under him and I was told that there was no financial assistance, although of course there are two pilot projects now in the north.

Hon. Mr. Bernier: Three.

Mr. Wildman: They're studying how fire protection might be provided, but the people of Oba have had five fires in the last year and half which have been caused by the Delco generators malfunctioning. The last one was a very serious one. It burnt down the general store which was the centre of the community. Also the generator produced power not only for the store but for seven other homes in the town.

They organized a volunteer fire department and wanted to get a hose and a pump. I was told by the Solicitor General (Mr. MacBeth) that there was nothing they could do, so I approached the Treasurer (Mr. McKeough). I received a reply from the Treasurer's parliamentary assistant saying he wished them well and wished them luck in fighting forest fires but that there was no money available.

Then I thought if there is no money available for new equipment maybe we could go to MNR. I wrote to the minister. I think the minister was genuinely concerned—I am sure he was—about the community. I requested that perhaps the ministry might look at either selling or giving—I would prefer giving—some secondhand equipment to this small community. It took quite a while for the people to look into this. In October, the volunteer fire department bought a pump

which cost \$900. They wanted to get some hose. I received a letter from the minister wherein he said: "The old hose cannot be considered useful to Oba as it is well worn before it is disposed of by my staff. The risk of failure of this old hose is too great for the Oba fire department people to rely on it in times of need." Then you went on to offer the citizens of Oba training by the Hearst district, if they could obtain equipment elsewhere.

This story goes further again into other ministries. The pump they bought had sales tax. I contacted the Ministry of Revenue and asked them if they could exempt the sales tax and they said no, they couldn't. These people are going to have to pay sales tax on the water pump to help protect them from fire. The federal ministry said they would be willing to waive the excise tax, if the board of education in Oba would take the equipment as part of their equipment. We are now in the process of looking at that too for the provincial ministry, but apparently it looks unlikely that the provincial Ministry of Revenue would be willing to waive the sales tax.

Here you have a situation where people want to get together to protect themselves. They're taking a responsible attitude, they have gone out and purchased equipment, but they can't get any relief or help—other than training, which is useful; I'm not debating that—from this government in obtaining the equipment. They have the hope that in the long range, after the pilot projects are complete, perhaps there will be some overall policy that will help unorganized communities in the north; or perhaps even in the longer range, that TEIGA will come up with some solution to the whole problem of unorganized territories in the north in the form of some proposed policy or legislative action that will help to organize these communities.

The situation as it is now is that the people of Oba now have a pump—

Mr. Makarchuk: But no hose.

Mr. Wildman: —with no hose, but they're having to pay provincial sales tax on the pump. I really wonder how worn out your equipment must be before you stop using it. Maybe I'm wrong, but to me a worn hose is better than no hose. I am really frustrated that the people of Oba have been unable to get any kind of help from the government, other than promises of training; as I said before, that is useful, but certainly they have got no help in terms of equipment and no

help in organizing to protect themselves from fire.

I want to emphasize that I am not denying that the ministry, when they are available and when they can, will help to fight fires in Oba. But with the tremendous responsibilities they have for fighting forest fires, it is very difficult for them to respond to calls in an isolated place like this. I am simply very disappointed in the reaction I have got from all of the ministries of the government, and I would like to have some response from the minister. Is there no way that communities like this could get secondhand equipment from the Ministry of Natural Resources?

Hon. Mr. Bernier: Mr. Wildman, if I may respond, I feel your concerns are very real. I also share your concerns because I live in Hudson, an unorganized community of about 400 or 500 people. In fact, I was very active on the volunteer fire department at one time myself and my father was the fire chief for many years. To date, we have our own fire truck, and our own fire hall. We have an alarm system throughout the town, with switches on the various hydro poles and a major siren. We have a resuscitator and other equipment. It can be done with local initiative, providing you have enough people; I accept that.

I am particularly pleased that you recognize that our staff will go out 24 hours a day if there is a structural fire within a community. This is one thing we are proud of. I just want you to accept the fact that we are not equipped to fight structural fires. We don't have tankers; we don't have ladders; we don't have resuscitators available at our whim; we don't have the proper firefighting clothing and this type of thing. It is always encouraging and heartening to me when I hear remarks like those you have just made, that our staff are there and are always willing to help, but we don't have the proper training to fight structural fires. Also, we are seasonal people; we operate in the summer-time. Our hose is not rubber-lined and we don't have the proper equipment for pumping in the winter-time, which creates a problem because that is when the most severe fires take place in northern Ontario because of the frame buildings we have up there.

During the course of the forest fires this summer, we had to evacuate something like four or five areas. I refer to places like Valora, Watcomb, and Silver Dollar, which was in the news for some considerable time and was saved because our staff moved in and protected that particular area. We were

not as successful in Valora, where the fire was a raging inferno and there were high winds; we just couldn't protect all the buildings, but we moved in there first.

[8:30]

We also had a situation in Allan Water, where the individual admitted he could hear the forest fire coming and it sounded like a locomotive coming through the forest. You just can't have the equipment to stop a structural fire in that situation and we could not. We were there shortly after, as the safety of our own people was considered. But these are problems we have in northern Ontario and I am glad you recognize the three pilot programmes that we have through the Solicitor General's office, one at Jellicoe, one at Nestor Falls and one at Minaki. I can tell you the enthusiasm in those communities is just outstanding. They pull together and they have leadership. In a small community the key to it is to have responsible people who will take the lead in setting up a volunteer fire brigade and being responsible. We have had that difficulty over the years in getting people who are prepared to take on that responsibility.

I am concerned and I have pressed on this issue for several years now. I can indicate to you that we will be making an announcement within a matter of weeks, myself and the Treasurer, with regard to some form of structure and some form of a programme for the unorganized communities. The Treasurer has been working very closely with the two unorganized organizations, one in northwestern Ontario, headed by Rupert Ross and one in northeastern Ontario, headed by a Mr. Davies. I'm not too sure of the name.

They have been meeting on a regular basis and submitting some excellent briefs on matters of unorganized communities and fire protection. There is no question but that they're excellent. We have looked at them very carefully and we have a programme now moving through the various ministries. I hope by the end of the year, if not earlier, we will be able to announce something that will answer some of your problems.

Mr. Wildman: I am glad the government is looking at the problem, but what about the final question of whether in the interim these people can get a hose? They have got a pump but no hose.

Hon. Mr. Bernier: Yes, I think we can arrange something. But here again when we give out hose, some of the hose is really not worth giving out. If we give out hose and right in the middle of an emergency, the hose

breaks and it's worn out or it gets a leak in it, they say that's what the government gave us, some worn out stuff that wasn't any good. We get criticized for that. They won't accept it as something that is worn out.

Mr. Wildman: How about giving them some new hose?

Hon. Mr. Bernier: I would like to go the programme that we are looking forward to in a matter of weeks, at least before the end of the year, but I think we can get something to that particular community on an interim basis. They wouldn't expect too much.

Mr. Haggerty: In southern Ontario they give them almost everything.

Mr. Wildman: I tried to get the thing put under a programme where they watered the rink in the winter time so they could get a Wintario grant or directly under Culture and Recreation they could give them some kind of grant for it.

Hon. Mr. Bernier: I am glad you brought up about watering a rink because that's what happened in many small communities.

Mr. Haggerty: If it's for lawn bowling, you'll get it.

Hon. Mr. Bernier: I have been so familiar with this situation. They have raised funds for a water pump; they have raised funds for a hose. Then the curling rink pump breaks down and they get the fire equipment and pretty soon it's all frozen up. It's left out frozen stiff and an emergency occurs and they're in trouble. This happens time and time again. I have lived through it and I know what it's all about.

If the situation is that desperate I would be glad to look into that community's situation on an interim basis. I just want to make the record clear, so don't hold us responsible if the hose breaks and punctures in an emergency. Don't say: "Look that's what Natural Resources will give us, just the garbage." We have no obligation to give you new hose. We couldn't do it.

Mr. Wildman: I recognize there is no obligation.

Hon. Mr. Bernier: There is no programme designed, but if this is the situation, I'll make sure they have a hose to work with that particular pump, if they've got the pump.

Mr. Wildman: You can imagine the situation after these many fires in such a short period of time. Then couple that with the fire hazard this summer in the north and the

desperate situation these people are in. Happily, one good reaction resulted or spurred them into the formation of a fire department, and then they have run into all these roadblocks. Now we are trying with the Ministry of Education to get rid of the sales tax problem—maybe we can call it educational equipment. It is very frustrating and I would hope that it's done.

I'm glad that you said you would look into the situation and perhaps the Hearst district could do something in this situation.

Hon. Mr. Bernier: We can and certainly will for that specific community. I will take your word for it, that it is an emergency, a desperate situation, and we will move on that ground. But I want to make it very clear that the enthusiasm and the responsibility and the leadership should come from the municipality. I am not a believer in just giving the equipment, because it would not be properly looked after and maintained. I think if they have an investment, if they are part and parcel and share—this is the route I would hope would go into this new programme, so that they have a responsibility and they're part of that equipment—its partly theirs.

Mr. Wildman: I think they have shown that in that they have—

Hon. Mr. Bernier: Yes.

Mr. Wildman:—organized themselves and they bought this water pump on their own and the board of education in the town has said that they want to get involved and help them out. If that's the only route for getting rid of this sales tax—

Hon. Mr. Bernier: How many people live in Oba?

Mr. Wildman: About 70.

Hon. Mr. Bernier: Seventy. We will look after them.

Mr. Haggerty: I want to discuss that matter of the unorganized municipalities too. It is about three or four years now that the ministry TEIGA had presented a bill to the House for discussion and adoption. I think we tabled it twice—no, it's been reintroduced again, I think—and nothing has been done, I'm sure I brought to the ministry's attention for the last two years the problems in northern Ontario—particularly the unorganized municipalities—and the fact they should have some type of fire equipment.

I would suggest that perhaps the equipment could be funded from the Ministry of

Natural Resources which could have it placed in a community there along with training personnel. I am sure in a forest fire in northern Ontario you could use all the available manpower there. Maybe by keeping a piece of equipment there, it is a lot more economical than spending an extra \$2 million for extra firefighting and the hiring of other aircraft and so on. Two million dollars could buy quite a bit of fire equipment for certain communities in northern Ontario and maybe you should be looking at that.

It's good to have a piece of equipment in some of these outlying communities, with 10 or 12 men available. You could use them too, to get to a fire perhaps a lot quicker than you could even by aircraft. You may have to fly 300 or 400 miles. These men are available and you could have them pretty well organized throughout all of northern Ontario, when you have this particular equipment available. I am talking about trucks with portable pumps and that. I don't think hose is that expensive. Perhaps the type you use fighting forest fires isn't as heavy as what you would use in these communities.

Hon. Mr. Bernier: If I may comment on this bill—is it 102 or 120?

Mr. Haggerty: Bill 102.

Hon. Mr. Bernier: It was introduced for first reading and if memory serves me correctly it was given broad distribution throughout the unorganized communities of northern Ontario. They formed two specific organizations, one for northeastern Ontario and one for northwestern and they reviewed it very carefully. There was some apprehension about going this direction and this formal structure—they were nervous about it. I think they had the feeling they wanted the freedom of living in an unorganized community without having government looking over their shoulder and of being locked into something. They say, "Give us some assistance and direction but don't tie us in to a formal municipality." That I believe was the flush-out of the whole discussions that took place.

Mr. Haggerty: There are grants available in organized municipalities but perhaps not for unorganized—and this is perhaps what the member is talking about.

Mr. Wildman: No, there's no grants for organized municipalities either.

Hon. Mr. Bernier: No, nothing.

Mr. Haggerty: Well there were in the past.

Hon. Mr. Bernier: There were.

Mr. Haggerty: I am suggesting perhaps a kind of mutual aid system should be available in northern Ontario, with grants from the government of Ontario.

You talk about sirens. There are all kinds of sirens throughout the province of Ontario that have been in place for the last 20 or 25 years. We don't know if they're going to work or not, but they're there. That was all through EMO. Surely there's a place from which you should be able to get some equipment. This organization was pulled out by the province and is no longer in existence. I know the Niagara Peninsula had a number of pieces of fire equipment and fire hose. What they're doing with it I don't know, but there's the place to look and find out where that equipment went to. I think in some cases maybe municipalities in southern Ontario can be generous in providing it to some community in northern Ontario.

Hon. Mr. Bernier: One of our problems in the unorganized communities is the quality of the structures themselves. They are usually of frame construction. If memory serves me correctly, in one of the fires in northwestern Ontario where several lives were lost—if the member for Lake Nipigon (Mr. Stokes) were here, I am sure he would be more familiar with it than I—I believe the fuel oil was stored in the bathroom right next to the kitchen. When the fire started, it was gone in a matter of minutes. Things like this occur. The heating apparatus in some of the homes is air-tight heaters; they are just match boxes so you have to be there within minutes of the fire starting.

Mr. Haggerty: That's of course another thing.

Hon. Mr. Bernier: That's why there has to be the local initiative and the responsibility at the local level. We can put all kinds of equipment there but there has to be somebody there responsible and anxious to take the leadership and take hold of the reins.

Mr. Haggerty: Another area they should be looking at is the local initiative programmes of the federal government. I know cases where they have been a great help in providing assistance to smaller communities, not particularly for firefighting but other things—building buildings, housing and centres for recreation purposes. They could build a fire hall that could be used for a community centre.

Hon. Mr. Bernier: Just let me assure the members that both the Treasurer and I have

been working on this very closely. I'm very confident we will have something to say in a very positive way for the unorganized communities before the end of the year.

Mr. Ferrier: We have been waiting a long time.

Mr. Makarchuk: Leo's Christmas present for the unorganized communities. Is that what the programme will be called, LCP?

Hon. Mr. Bernier: A present like this at any time of the year is good, not only at Christmas-time.

Mr. Wildman: You are going to have to have an awful lot of start-ups.

Hon. Mr. Bernier: Yes, I accept that. I think we are going to have to get something in place and something moving. We won't be able to supply all the requirements and all the demands but maybe we can get something in place where we can get some assurance or some hope that we have something in place to assist those communities that are part of this provincial structure. I accept the fact that they pay provincial taxes and they contribute to the economy like everybody else. I don't have to remind you about that because I'm there. I can assure you I am pressing as hard as I can to get the answers to the problems you have been raising.

Mr. Ferrier: You had better keep laying heavy on the Treasurer.

Hon. Mr. Bernier: Yes. I am.

Mr. Lane: I have a question on the same topic. The member for Algoma has brought up a very important matter. I think we are all aware of the problem and certainly if the minister can give you some help for Oba and a dozen other places in your riding and other places in northern Ontario I'm all for it. I just think Bill 102 wasn't satisfactory to many people in the north who are living in unorganized municipalities.

I sit in on a lot of those meetings and I think we have to get a piece of mechanism that is satisfactory to them. I know quite a few unorganized townships in my riding do not want to become organized because they feel there's a tax benefit in not being organized; yet they need this kind of protection. So I do think we do have to find a piece of mechanism that will be acceptable to the people in the north and through that piece of mechanism provide the kind of protection we are talking about in those other areas.

Certainly I can agree it is a very great problem and there are many other problems

besides the fire area problem. But not having any local organization to deal with these matters and to bring them to the fore, certainly we need something.

I am glad to hear the minister say that maybe in a few weeks we will be having a mechanism by which we can really provide a service to these other places as the member for Algoma has mentioned. I have them, and everybody in the north has them, and we need something on a wide scale. There is no question about it.

[8:45]

Items 2, 3 and 4 agreed to.

On item 5, resource access:

Mr. Wildman: I just want to ask a short question—maybe it doesn't come under this, but I think it does—about access roads to resources. I understand the minister recently visited Wawa and made a statement to the rod and gun club, I believe, that roads built with public funds would not be closed to public use. Is that correct or not?

Hon. Mr. Bernier: No. What I did say was that if public funds were spent on particular roads, then they were open to the public.

Mr. Wildman: Well, there is a situation in the region I come from—and I'm sure there are other examples—where the ministry wants to keep open a road that goes to Torrance Lake while there's a tourist outfitter there who wants to close it. At the same time, there is another road, the Esnagi Dam road, which the ministry wants to close but which the people in the area want to keep open. My understanding is that public funds were spent in the building of both those roads. The Esnagi Dam road is in the Wawa district, formerly White River, and the other is in the Sault Ste. Marie district. There seems to be a bit of a contradiction there. Is there no overall policy or is it different in every district?

Hon. Mr. Bernier: The policy is the same right through. I am just not sure of those particular roads.

Mr. Wildman: No, I wouldn't imagine you would be.

Hon. Mr. Bernier: Do we have somebody who's familiar with those specific roads? Do we have nobody here?

Mr. Wildman: I have a letter from Mr. Hughes, who says that they leave it to the districts to answer my letters, but one district

says one thing and the other district says the other.

Mr. Giles: Mr. Minister, Mr. Chairman and members, this sort of thing is a decentralized operation as far as we are concerned, and that is why the response would be coming from the regional director. We don't have the information here, but we certainly would be glad to try to obtain for tomorrow.

Mr. Wildman: I would appreciate that. But, generally, if public funds are spent on the building of an access road—

Hon. Mr. Bernier: That's right.

Mr. Wildman: —then it will remain open to the public?

Hon. Mr. Bernier: Whether they are NORT funds, Natural Resources funds or T and C funds, if public funds are spent on that road, it must be open to the public.

Mr. Wildman: Okay, fine. Thanks.

Hon. Mr. Bernier: We will also check on those two roads and have a reply for you on Monday.

Mr. Vice-Chairman: Mr. Makarchuk.

Mr. Makarchuk: No. I am just saying we should carry this vote.

Mr. Williams: Mr. Chairman, talking about access by road—and I guess this ties in with air services—what type of access is available other than by road? What air services are available for access?

Hon. Mr. Bernier: These funds are divided among a number of sections: Forestry and logging access roads; roads that we build into summer cottage subdivisions; roads that we use for the management of the forests; and roads built under the Northern Ontario Resources Transportation Committee, which constructs roads for mining developments, in some instances for recreational purposes, in some instances with the co-operation of the wood industry and in some instances just on its own for a specific purpose of resource management. You've got that mix in this particular vote; it's very broad, very encompassing. It takes in a wide range of access to inaccessible areas of northern Ontario in particular.

Mr. Williams: That's the point, Mr. Minister; I am trying to tie that in with item 3, air service. To what extent is access being broadened by way of airport facilities and equipment such as is being utilized to such

a great extent in the northern parts of the provinces in western Canada? The building of roads is almost uneconomical there and they are resorting in large measure—and, in many instances, totally—to air freight and air service. Surely, therefore, resource access must relate to air service to some extent. I am wondering to what extent and whether, in fact, the ministry is broadening its horizons in giving greater emphasis to that type of access rather than the conventional road service?

Hon. Mr. Bernier: The highway-in-the-sky programme, which was announced by the former Department of Highways, has been taken over by the Ministry of Transportation and Communications. Over the last three or four years they have embarked on a very ambitious programme for the development of airstrips in the remote parts of northern Ontario, particularly isolated Indian communities such as those at Winisk, Fort Severn, Big Trout and Sandy Lake. Very recently I met the Minister of Transportation and Communications (Mr. Snow) in Fort Hope, which lies in the riding of the member for Lake Nipigon, and they opened a new airstrip under that particular programme and the same day brought in a scheduled air service in connection with the northern programme.

That particular programme is being well received, and it's certainly having an effect on the cost of living in those remote areas. The air service has been accepted and is moving ahead; it has also ended the isolation of many of the remote areas, particularly in the freeze-up time in the fall and the breakup time in the spring, when there was a three- or four-week gap during which they couldn't move because of the ice and travel conditions, because most aircraft were operating on skis or floats. That problem has been overcome now with the airstrip development programme, which has been well accepted and is working well.

However, having that in place for the last three or four years and with the inflationary aspect that is with us, I have to admit that the native peoples are saying to me—and, I'm sure, to other members from northern Ontario—that the costs really have not gone down. The air freight costs have gone up, food costs have gone up, and they really cannot see any change. In fact, in the last three or four years, with the way inflation has gone up by 12 to 15 per cent, the cost of living is even more severe now than it was then.

As a result, they have come back to us and made a very strong proposal that is before the NORT committee now. It is a very in-

teresting proposal; in fact, I will be meeting with the group next Tuesday with regard to that proposal. It will mean the extension of the northern access road north of Pickle Lake, which you will recall was a NORT committee access road that was initially designed to swing around up to Weagamow Lake, across, south of North Spirit Lake, and then down into the Red Lake area. That's a distance, I would say, of 300 miles.

We got, I would say, perhaps 175 miles built—we were building it from both ends—and we met with the native peoples and they said, "We really don't know where we are going. We would like to take a pause and maybe put a moratorium on that road construction programme. We may want it to go north, we may want it to go south, but would you consider just stopping it?" It was a little embarrassing, because we had a road going nowhere, so to speak. There was no end to it. It just stopped right in the middle of nowhere. But we did adhere to their requests, and we stopped it and we maintained it.

Now they have come back to us with a new proposal. They ask that on the east end we extend the road I think it is something like 10 miles to Weagamow Lake, at which place they would like to develop a major warehousing facility. The warehousing facility would be constructed from federal funds and they have already been in touch with the federal people. We would give them the right to a certain tract of land on which they could operate their own transportation facility and their own transportation company.

The idea is that during the winter-time, the foodstuffs and all their equipment, their gas, their housing materials, could be trucked in on an all-weather road to the northern terminus point of Weagamow Lake. We would have warehousing facilities there. From there we would go by tractor train to Round Lake, to Muskrat Dam, to Sachigo and Bearskin—to those four separate Indian communities—and this is a whole new, total thrust.

It's an exciting proposal, and I have to admit to you they have done a lot of homework, they have done a lot of research on it. We are excited about it and we think it has merit. Not only will it provide the native peoples with the opportunity to be involved in their own transportation responsibilities, but it will also have an employment aspect for those native people. There will be quite a number engaged in the total facility, be it at the warehouse, or on the road programme, operating the tractors in the summer-time. Eventually they hope to develop an airstrip

at Meagamow Lake, so it's a very ambitious programme.

When we tie airstrips and access roads, it is a very good example how the two can be tied together to open up the northern part of this province to the benefit of those native peoples. We are hopeful it will get off the ground and be a very functional, a very practical, and a very worthwhile project.

Mr. Williams: I appreciate that, Mr. Minister. I guess it is The Airports Act under which the opening up of the north through provision of airport facilities—as financed by this government—that is directed more to the movement of people into and out of these very isolated communities such as those you are referring to. But let me give a different perspective to a broadening of air service as it relates to access for resource industries. As I understand it on this particular item—

Mr. Makarchuk: On a point of order, Mr. Chairman, we are talking about access roads. We have tried to stick to the items under consideration, and I wonder if we could just get back to what we are really talking about. If we are talking access roads, let's talk about access roads; otherwise if we are going to open this thing up, then it is going to lead to more confusion and it certainly is not going to get these estimates through. There is an effort on the part of the whips of all parties to try to get these estimates through in a certain period of time. I am sure the minister and his staff and everybody else would like to get through, instead of sitting here forever. I am sure we could manage that if we try to stick to the topics and deal with them a little quicker.

Hon. Mr. Bernier: What's a certain period of time? I would be interested to know.

Mr. Makarchuk: We hope to get through by Wednesday.

Mr. Cunningham: Which Wednesday?

Mr. Makarchuk: This coming Wednesday.

Mr. Williams: Mr. Chairman, continuing with the topic of resource access—whether it's by road or water or air, it's resource access and as such I think I am more on topic than some people who are inclined to talk about mining the high seas and involving—

Mr. Vice-Chairman: Does this come under northern air?

Mr. Williams: It certainly is nonsense talking about the international problems.

Mr. Ferrier: Mining of the high seas involves—

Mr. Wildman: It involves the whole Sudbury basin; you don't understand the relationship.

Mr. Williams: I think we spent half of yesterday talking about the United Nations. It is interesting, Mr. Minister, to find that your ministry has taken on such a high profile as to get involved with the United Nations.

Mr. Ferrier: You should learn some of the implications for the northern parts of Ontario.

Mr. Williams: I am sure, Mr. Chairman, that we are a little closer to topic in talking about resource access and the fact that I am trying to give a new dimension to that subject.

Mr. Ferrier: We all know you are trying to filibuster.

Mr. Laughren: You ask him what time it is and he tells you how to make a watch.

Mr. Williams: One thing that our friends are consistent about is the high degree of emotion that emanates from their side of the room.

[9:00]

Continuing, if I might, Mr. Chairman, coming back to the perspective that I wanted the minister to comment on with regard to the conventional resource access—the provision of roads as it relates to the resource industries—it is my understanding that the government does provide some incentive, financially, to the mining companies to assist them in the developmental costs when they go into a remote area. My question to you is, has any provision been made or, if provision hasn't been made, any consideration given to cost sharing for opening up of remote areas, through the construction of landing sites for the purpose of movement in and out of equipment as well as personnel into these newly found mining sites and areas? I'm not aware of any financial support being provided for this type of access by the government to the resource industries.

Hon. Mr. Bernier: Let me go through the 1976-77 work programme for the Northern Ontario Resources Transportation Committee, which will give you an idea as to some of the programmes and some of the undertakings that we've done in the last year and that we're doing.

Number one is grading of the final six miles of the road between Thunder Bay and Armstrong. That's in the riding of the member for Lake Nipigon (Mr. Stokes). This will provide a first-class access to the residents of Armstrong for the extraction of resources along the full length—that's north of the Thunder Bay area, and it goes up for some considerable distance. This should bring that road into a first-class condition.

Upgrading of a further 10 miles of the old Marchington Lake road. This is in response to the Great Lakes Paper Company expansion at Thunder Bay, and will eventually tie the community of Savant Lake to Sioux Lookout.

Mr. Williams: These are cost-sharing ventures?

Hon. Mr. Bernier: This one is a cost-sharing one, yes. Great Lakes Paper Company is building about 9.1 miles, and the government is building the rest through the NORT committee and through TEIGA, the regional priorities budget.

Commencement of the Trout Bay road from Red Lake, primarily for the extraction of forest and mining resources, and also to provide recreational opportunities in the form of new summer cottages.

Construction of the Turtle River bridge in the district of Fort Frances—that's in the member for Rainy River's (Mr. Reid) riding—to provide access to the resource north of that particular river, and particularly to supply the demand for timber by the native peoples in that particular area.

Construction and reconstruction of the Caithness road, which the member for Cochrane South (Mr. Ferrier), I'm sure, is aware of in the Hearst area. Again, this is to supply a forest resource to the mills in the Hearst area.

A sharing of costs with TEIGA and awarding of a contract for the Manitou road that will eventually connect the towns of Dryden and Fort Frances, a totally new road going through a wilderness part of northwestern Ontario.

Completion of three miles of the Garden Lake road in the Thunder Bay area, shared with the Abitibi Pulp and Paper Company.

Continuation of winter roads, of which I spoke.

Snowmobile trails connecting a number of remote Indian communities. Poplar Hill, Deer Lake, Sandy Lake, North Spirit Lake, Big Trout Lake, Round Lake and Muskrat Dam

all were connected with snowmobile trails last year, assisted through the NORT committee.

Numerous candidates for mine-assisted road projects are also in what we call the indirect programme.

Mr. Williams: I think those are—sorry, go ahead.

Hon. Mr. Bernier: There are different types of funding. Do we have someone here from the NORT committee who knows the formula? I believe it's assistance up to \$25,000 a mile, up to 50 per cent of the cost, is that right?

Mr. Cleaveley: Yes, that's the maximum. If it's a smaller project it is 50 per cent.

Hon. Mr. Bernier: On an approved access road that has to be related to the development of the resources. In other words, if a mining company has a piece of property that looks interesting and it wants to bring in some drills, we're not really interested in that type of an access road. But if they find a piece of property where they have an ore body that looks interesting, they do some exploratory work on it, they prove it up and they are willing to give us their development plans so that we know there is an ore body there that makes sense and that they will spend further money on it and provide employment, then we will look at the cost-sharing basis for that particular road access. We've done this on a number of occasions.

Mr. Williams: That brings me back to the original question. Has there been an instance where the ministry has provided that type of development funding for access purposes via the air route, namely, provision of moneys to develop airfield or airstrip facilities, if it's found to be the more economical method of gaining access into and out of the resource industry's location?

Hon. Mr. Bernier: Our ministry does not get into that particular field. Transportation and Communications does. We prevail on them to develop certain airstrips for our forest fire protection programme, particularly the Tracker programme, to which we referred in the air services vote whereby we need good land-based facilities. I believe, and somebody might correct me on this, Geraldton and Chapleau were two specific areas. I'm just wondering were there any specific funds from Natural Resources in those two or was it all Treasury, Economics and Intergovernmental Affairs? For the two communities, Geraldton and Chapleau, the two airstrips?

Mr. Cleaveley: The airstrip that is being built at Geraldton will be built with TEIGADREE funding. As far as I know, our involvement has been in some of the winter-clearing operations that went on in constructing the base for the strip.

Mr. Laughren: Why don't you throw in a few bucks to pave the Chapleau airstrip?

Mr. Cleaveley: Chapleau is still one which hasn't been approved in terms of the TEIGADREE funding programme as yet. Geraldton is the first one to start and Chapleau is, I think, on the list at some later date.

Mr. Williams: Then I gather that no provision has been made for this type of alternative cost-sharing on airports.

Hon. Mr. Bernier: On airports, no.

Mr. Williams: Has any request ever been made of your ministry from the resource industry people on alternative access?

Hon. Mr. Bernier: No, because I think we've notified those interested. Normally there's always a shortage of local funds because they're in remote, unorganized communities and no funds are available at that level. When they have applied to the government it's on the 100 per cent basis because airports and airstrips are something that the entire community uses just like urban transit here in Toronto. I think properly so; they should be developed by one level of government or another. To have the total burden or even a partial portion of that burden carried by the local municipality would just be a little much really. There's been no direct request for airstrip development but there has been considerable for road development.

Item 5 agreed to.

On item 6, land and water classification:

Mr. Ferrier: I wonder if the minister could give us a report on the ministry's position as far as these strategic land-use committees are concerned? They were very active at one point, but it seemed rather cumbersome to reach a consensus to get the people together in our region, and after about two meetings we heard no more. Have the ministry people gone ahead and adopted reports for the region or just where are these things now?

Hon. Mr. Bernier: Again the function of an estimates committee is to provide a very opportune time to hear from the experts or people who are directly involved. We have

with us Bob Bugar whose official title is—I can't keep up with the titles.

Mr. Bugar: I am director of the land use co-ordination branch.

Hon. Mr. Bernier: We pay them. We have to give them big titles. He is the land use co-ordination branch director.

Mr. Bugar: Prior to the reorganization of the ministry, you were aware that we had what was called the district foresters' advisory committees. Following reorganization, we replaced those with regional directors' advisory committees. I believe that's the group you are referring to. We have encountered some difficulty in getting those committees together. As far as strategic planning specifically is concerned, there is no intention whatsoever to drop the use of the committee in commenting on that plan.

Mr. Ferrier: My colleague from Nickel Belt (Mr. Laughren) and I were on the one in our particular region. I believe we were to continue through this report and then we were to meet with the group in Sudbury to comment on the ministry's proposals for the whole of the northeast. I guess it must have been a year or so ago when we had our last meeting and we have heard nothing since.

I thought those committees provided a very useful function in assessing the various competing interests between mining, forestry, recreational and fish and wildlife people, to try to come up with some general overall plan for the whole region as to generally what kind of activity would be considered in certain areas. I know the meeting had difficulty in getting members to participate and to set up another meeting, but I don't know what happened from that point. They must have just dropped out. I think it was worthwhile having citizen participation.

But, whatever the outcome, that exercise is worthwhile and maybe should be brought to a conclusion at some point, even though there are some difficulties. If the citizens are not available for the input, at least in some way, I think the ministry should make some conclusions and submit them to some public meeting within the particular region.

I don't think this was the regional committee advisory committee of the director or something like that. It seemed to be a different kind of setup. The minister announced these in the House, did he not? Maybe my memory doesn't serve me too well.

Mr. Bugar: The regional directors' advisory committee is the formal title. If I may

reply, for various reasons we have been somewhat slow in the northeast at compiling all the information and getting it between the covers so that we might usefully go back to some involvement of the citizens and certainly the regional advisory committee. We have just now received the first draft of the document of the thoughts and so forth that you were putting together some while ago. It has not been as fast as we hoped but it is now available and I would expect that in the not-too-distant-future we would be back to that group.

Mr. Ferrier: So it just hasn't ceased to be. You are going to follow it through.

Mr. Bugar: We fully intend to follow it through.

Mr. Ferrier: I am glad to hear that. I think it was a good idea and would provide a useful service in the northeast. I don't want to prolong this but I am glad to get that information.

Mr. Laughren: On that same topic, I am at a loss to understand whether or not the resolutions coming out of the committees have anything to do with slowdown in their activities.

Hon. Mr. Bernier: I don't think so. Maybe Mr. Bugar would want to comment on that.

Mr. Bugar: I would say not at all. That was not one of the causes. We have had staff turnover and we have had to put some new and relatively young people in, so that has slowed down the process. It had nothing to do with the recommendations and resolutions.

[9:15]

Mr. Laughren: You know, I think a lot of the people in your ministry were very happy to be doing that and felt frustrated by the other ministries of the government; namely, TEIGA who—I won't expect you to bad mouth TEIGA—but—

Hon. Mr. Bernier: Want to bet?

Mr. Laughren: —you just sit there and smile.

Mr. Cunningham: If I can interrupt, let's hear this interjection on the part of the minister. It's informative to all of us.

Hon. Mr. Bernier: It was facetious—

Mr. Laughren: No, but TEIGA wouldn't seriously address themselves to the problem

of land-use planning in the north, and that was the reason that MNR—

Mr. Wildman: They don't understand it.

Mr. Laughren: Maybe it's better they don't. But MNR, who were not really in the beginning equipped to deal with land-use planning, were thrown the ball.

Mr. Haggerty: TEIGA has 99 per cent of the land in the province of Ontario under its control—

Hon. Mr. Bernier: It's a big responsibility and a big job and we think we have the best staff in the government to do it.

Mr. Laughren: At the meetings I attended—I think I only missed one—I was very impressed by the people who were trying to do something with land-use planning. I thought that they were serious about it and that they had some good ideas. I listened to the groups we had there, particularly in the meetings I attended at Cochrane and Timmins.

Hon. Mr. Bernier: I'm glad to hear that. I appreciate your remarks.

Mr. Godfrey: Mr. Chairman, is this where aggregate—Is this part of the land-use planning vote or is aggregate in the next vote?

Hon. Mr. Bernier: No, in the resource products vote.

Item 6 agreed to.

On item 7, land, water and mineral title administration:

Mr. Haggerty: Mr. Chairman, I have a question I want to direct to the minister about water lots—particularly those along the shores of Lake Erie. I wanted to question the minister about the rental charges that are presently enforced by his ministry. How is the rental value arrived at? How do you charge for the lease of a lot along Lake Erie?

Hon. Mr. Bernier: I believe it is on a percentage of the appraised value. Ten per cent of the appraised value is the figure that is used for setting the annual rental charges.

Mr. Haggerty: Who appraises the—

Hon. Mr. Bernier: A qualified land appraiser.

Mr. Haggerty: It is not being done through the provincial assessment division, is it?

Hon. Mr. Bernier: The Ministry of Government Services.

Mr. Haggerty: They do that, do they? TEIGA is not involved in it?

Hon. Mr. Bernier: Maybe Mr. McGinn would like to come up and answer your questions, Mr. Haggerty, in a direct way.

Mr. McGinn: Mr. Chairman, what we do with respect to the issuing of leases for water lots is to have an appraisal of the water lot done by a person from the Ministry of Government Services who is qualified to do such a thing. In areas where the Ministry of Government Services people are not available we will go to a professional land appraiser and pay him to have that job done.

Mr. Haggerty: In other words, you wouldn't say it would be an equalized assessment basis then. If you went to one appraiser in some other community or some other area it could be a difference in the assessment of the rental value. It could vary quite a bit, couldn't it? The amount that a person would pay for the rental value of that lease? For example, are all leases for persons using it for marina purposes based upon equal assessment?

Mr. McGinn: They are appraised on what the market value of the property is. That is, the appraisal is done based on information of adjoining properties, on what they are worth and so on, to come up with a market value of these properties, sir.

Mr. Haggerty: How do you arrive at a rental value where a lease has been given to—let's take the Hydro development at Nanticoke—are they paying rental value to the ministry for the water lot they have?

Mr. McGinn: Yes.

Mr. Haggerty: What would—

Mr. McGinn: There is a 10 per cent—

Mr. Haggerty: Ten per cent, eh. You wouldn't know what that value would be though in dollars, would you?

Mr. McGinn: No, not off-hand. But I could certainly get it for you if you would care to have it.

Mr. Haggerty: What about Texaco?

Mr. McGinn: They are the same. They are all the same; 10 per cent of the appraised market value. As I say, an appraiser is sent out who appraises the water lot and comes up with a figure. We take that figure and

from that we will issue a lease. We charge 10 per cent of the appraised market value per year.

Mr. Haggerty: Have you made a spot check in certain communities, say, along the lake-shore, the Lake Erie shoreline? Are they anywhere near equal in rental values? It has been brought to my attention that you don't have any uniform rental value on leases for water lots and that is what I am concerned about. There is Algoma Steel in Port Colborne; and there is the International Nickel Company.

Mr. McGinn: What I am saying is what we are doing now. Perhaps the water lots that may have been issued by a lease to Inco or whoever may have been done some years ago when we were under a lease agreement with them. At that time there was a rate charged for that lease, and because we are in a lease arrangement we can't change it until the lease finishes. Then if the lease is to be renewed or a new lease is to be issued, then we would go into an appraisal situation and go into the 10 per cent.

Mr. Haggerty: In other words, for an operator to get the lease from the ministry now his rental value can be changed year after year. But for somebody who has a long-term lease, and it could be 99 years, there is no change in that. There is no justice in the system, is there then, if you compare it to municipal assessment. Say for my property I could have a lease on it, and that is about all, but there is a rental value included in assessment value, so in a sense I change every year whereas you could have somebody else who has a long-term lease and can perhaps increase the value of that holding but be paying less on it. I would suggest to the minister that perhaps it should come under market value of assessment then to make it equitable in the province of Ontario, even though the leases maybe 99 years old.

Dr. Reynolds: No, we don't have 99-year leases. We have a review provision in all of them. Perhaps Mr. McGinn might speak to that because they are not locked in and they are not for the duration.

Mr. Haggerty: They are not locked in?

Dr. Reynolds: No, there is a review provision on all of them. Perhaps it would be useful if Mr. McGinn were to explain the various types of tenure we have which include land-use permits, licences of occupation, leases and so on. With respect, I think there is a little confusion and it is not well understood. He

has explained how the initial rental or lease has come about but I think it would be useful, Mr. McGinn, if you would say something about the review practices and how these are carried out.

Mr. Haggerty: Maybe I used the words too loosely when I said licence. It should be occupation.

Dr. Reynolds: If you are confused you are not alone, because they really include exploratory licences of occupation and that type of thing which are all in the public mind often linked together and are really distinct in application.

Mr. Haggerty: The reason I am interested in this is that I was concerned about the gas production in the Great Lakes, particularly Lake Erie, where you lease out by acreage and yet perhaps there is no charge for the pipelines, the distribution system, that is there now. It might be just based upon royalties.

Dr. Reynolds: There is. I think perhaps you might include all of those.

Mr. McGinn: Years ago the ministry would issue a lease and it would be issued for a certain period of time. There were certain terms that were placed into the leases. What you do is to enter into a contract between the person and the ministry and at those times a certain rental was charged. Because you are entered into a contract, you can't change the contract until the term of the lease has ended—I am speaking specifically of leases.

We changed that so that we were able to put in a review, say every five years, in which the rental of the lease would be reviewed in terms of the present-day economy. We have come into the present-day situation where we issue a lease and the lease that is issued is based on market value appraisal as done by an appraiser. The lease is issued for a certain period of time and the rate that is charged for the rental on that lease is 10 per cent of the appraised value. So we have in place now in the ministry probably several different kinds of leases under different conditions, because they were leases that were issued at a particular point in time.

Mr. Haggerty: What is the income generated through the leases that you have?

Mr. McGinn: I don't have that figure, but I could get it for you.

Mr. Haggerty: I single out Lake Erie but I imagine there is the shoreline of Lake Superior and—

Mr. McGinn: We have leases all over, and also on inland waters too.

Mr. Spence: Mr. Chairman, may I ask Mr. McGinn a question? If you look at the map of Lake Erie, it is leased right out to the international boundary line and it seems the map never changes. Is that leased for gas, mineral or what?

Mr. McGinn: Mr. Chairman, those are not leases. Those are exploratory licences for gas and oil and they go for specific periods of time. Written into the conditions of those licences are work terms that they have to work on the licences, and they have to expend so much money and so on. If they make a discovery of gas or oil in Lake Erie, then there is a conversion factor from the exploratory licence to a lease. The lease is generally for a period of about 21 years at a specific rate per acre for the lease. Usually what is written into it also is a royalty that is collected on the production of the gas and oil leases.

Mr. Spence: That is why the map of Lake Erie doesn't change too often.

Mr. McGinn: I think it does change, sir, because the exploratory licences may change. They go for a period usually of about three years, and as I say, if a discovery is made of gas or oil, then they can convert the exploratory licence to a lease and the lease that issues out of the exploratory licence may not be as large as the licence itself.

Mr. Spence: Have you promised Mr. Haggerty that you would give us this revenue that is derived out of leasing in Lake Erie? I would be very greatly interested.

Dr. Reynolds: Mr. Spence, excuse me, I could give you the data for the year ending March 31, 1976. now. Leasing and rental of Crown lands for the year ending March 31, 1976, was \$567,883. For gas leases, and I think these are the ones to which you were making reference, \$479,281; for land-use permits, \$348,108; mining leases, \$155,758; licences of occupation, \$115,252; other, which is miscellaneous rentals and so on, \$28,006; for an overall total on this public domain type of leased rental type of thing of \$1,694,288.

Mr. Spence: Are the other Great Lakes such as Lake Ontario or Lake St. Clair leased out to the international boundaries?

Dr. Reynolds: No sir, the geology and what is known of it is such that only really from about Long Point east looks probable or shows any reasonable signs. The only roughly comparable area, and that seems not to be likely at the present time, is an area off the shore of Hudson Bay. This has been extensively explored. Without getting into the details of it, it is highly controversial as to whether we as a province have any rights. But that geologically looks like the only other likely prospect for this type of thing.

[9:30]

Mr. Williams: What about the exploratory licences? How many are there in existence today in Lake Erie or in any of the Great Lakes? Do you have any record of that?

Dr. Reynolds: I am sorry, I don't have the numbers.

Mr. Williams: Is there a great deal of activity in this area at the moment by the gas or oil companies?

Dr. Reynolds: It ebbs and flows. As you might imagine, the so-called energy crisis has expanded this activity. There are certainly a number of capped wells that have been re-examined more recently and are being fed into the system. There have been no oil discoveries of any real significance in Lake Erie. As to the contribution of natural gas to the system, somebody said it is something like 17 hours to supply, but it is considerable.

Mr. Haggerty: I just want the minister to assure me that there is equalized rental value throughout given areas.

Hon. Mr. Bernier: Yes, this is correct.

Mr. Haggerty: I am talking about equalized assessment and market value and so forth, so that everybody is treated alike.

Hon. Mr. Bernier: Everybody is treated alike.

Mr. Haggerty: I have had brought to my attention that everybody is not. I just don't have the names before me right now.

Hon. Mr. Bernier: If you have some of these discrepancies—

Mr. Haggerty: I have written to your ministry on it. This is the reason I raise the question now to make sure that—

Dr. Reynolds: They are treated alike from the standpoint of a common formula. Obviously there are variations in value, you might say market value, but the formula is

the same—namely, 10 per cent of market value, so market value varies and therefore the absolute rental varies.

Mr. Haggerty: I was just wondering why you would hire an appraiser to go in when you could get it through your provincial assessment office that has already assessed it. No doubt about it, they put a value on it.

Dr. Reynolds: Yes, but not exactly on a market basis. I suppose when we get into equalized assessments or market value assessments, then the sort of thing you are talking about would be reasonable. But at the present time we are not at that stage, as you know.

Mr. Makarchuk: Mr. Chairman, what I was going to talk about has been pretty well covered. One question, and I am not sure if this is on topic, is the matter of where the gas wells have the superstructure, or the Christmas tree or whatever you call it, torn off by fishing tugs and so on and they are left for days spewing gas. It is not unusual to be out on the lake on a boat and see a column coming out of the water. You know that a gas well has been ripped off and nothing is being done about it.

Does your ministry put any demands on the gas companies? In terms of their own internal economics it might be advisable for them to wait for a period of time before rushing in an emergency crew to try to cap it, but to me, looking at it with all the energy crisis, I get a little worried or concerned about seeing all this gas escaping into the air. Do you have any demands on them to ensure that if a well is torn off and it has been reported—and in most cases it is; the fishermen will report it or even if the boaters see it they will report it—that something is done within a period of time?

Hon. Mr. Bernier: Yes, we do have a programme. If memory serves me correctly, we used to have a section or some funds set up where we would actually cap those wells and charge them back.

Mr. Makarchuk: These would be possibly operating wells which would be ripped off and everything goes up in the air.

Mr. McGinn: Mr. Chairman, Mr. Minister, the area you are speaking of is handled in the petroleum section in the division of mines. There are requirements with respect to the safe operation of wells and there are also certain specifications with respect to capping of wells. If it should happen that there is a blowout of gas or whatever and

it is found by the ministry—who have inspectors, by the way, down in London and so on in southwestern Ontario—the company, I understand, is notified to get it capped, or in the case of emergency our people are expert enough and do have the contacts with the proper people so that the capping could be done in a safe manner. The cost of it, if it is done by the ministry by contract, is paid back by the company concerned.

Mr. Williams: On that point how many instances of wells being unintentionally uncapped have arisen? What experience do you have in that situation where inactive capped wells have somehow or other have come uncapped. It has been suggested that it is a fairly frequent occurrence. I am not aware of it. What is the incidence?

Mr. McGinn: I don't know the incidence but you would hear in the ministry of problems with respect to wells flowing or becoming uncapped and so on. I don't think this matter is of great incidence.

Dr. Reynolds: It is my impression, Mr. Williams, that it is now quite unusual and quite rare. In the early days of exploration and also the early days of trawling in Lake Erie, when trawls were being dragged through, it was not unusual, maybe one or two a week at times. But that is going back 20 years. I think with the safeguards to structures that are built over them, it is quite unusual.

Mr. Williams: Have there been any this year, do you know?

Dr. Reynolds: Not to my knowledge. Mr. Jewett, can you add anything to this from your knowledge?

Mr. Jewett: I cannot. I know of no instance of this happening in the four years I have been in the ministry.

Mr. Makarchuk: There was one at the end of July and I have talked to fishermen who pulled one off about April or May of this year. Those are two I know of for sure.

Mr. McClellan: I wonder if I could return just for a minute to the subject of what the government is doing to assist the communities of Grassy Narrows and White-dog to rebuild their economies that were devastated by the pollution from Reed Paper on this item with respect to wild rice.

In October, 1975, Grassy Narrows made a request, I believe, of the Ministry of

Natural Resources for an engineer to do a feasibility study on wild rice potential.

Hon. Mr. Bernier: An engineer?

Mr. McClellan: Yes, I am reading from the minutes again of this meeting that was held May 29, 1976 in Kenora. The minutes read: "Grassy repeated their October, 1975, request for an engineer to do a feasibility study on wild rice." At the May 20 meeting the ministry, I believe in the person of Mr. Herridge, indicated you didn't have wild rice expertise on staff but he did make a commitment that he would try to find a person. The minutes read: "Mr. Herridge will find a person to advise on wild rice either from Manitoba or from Minnesota." I think the understanding was that Canada Manpower would assist in the financial provisions of that service.

I would like to ask now what progress was made with respect to that and what work has either been undertaken or is planned to be undertaken with respect to a wild rice feasibility study for the Grassy Narrows area since the commitment was made to do it.

Hon. Mr. Bernier: I will ask Mr. Herridge to elaborate further but it is my understanding we did have a contract person in the person of a Peter Lee who was on for a specific period of time doing some very intensive biological studies with regard to wild rice.

Mr. McClellan: When was that?

Hon. Mr. Bernier: For the last couple of years, I believe, or for the last 2½ years. He has now returned to the University of Manitoba.

Mr. McClellan: We are talking about subsequent to May 20, 1976, since that was the time that you made the commitment to do it.

Hon. Mr. Bernier: I will ask Mr. Herridge to follow up on that, but I know that this consultant was working on it and that is where it stands at the present time.

Mr. Herridge: Mr. Chairman and Mr. Minister, following the meeting of May 20, there were two or three things with respect to Grassy Narrows that were done. We identified, in the field of expertise, that Peter Lee, who had been retained by us on contract during the previous two years, had established his own consulting firm in the field of wild rice culture and wild rice advice. This information was passed on to Bruce Crofts, who was acting for the two reserves, White-

dog and Grassy, and it is my understanding that they were going to undertake to retain the services of Peter Lee or Peter Lee's company directly. We retained them this summer on our own for a short period.

With particular respect to the wild rice opportunities in the vicinity of the Grassy Narrows reserves, following the meeting, we contacted the chief, Joseph Quoquat, and Wayne Stack, one of our persons from Kenora, went out. Subsequently our man Adamson, who is an engineer from Thunder Bay, went up and examined some of the bodies of water in the vicinity of Grassy Narrows to determine their capability for wild rice production. This information was provided to the Grassy Narrows council.

Subsequently, we met again with Bruce Crofts acting for the two Indian communities and had made arrangements for Adamson, the engineer, to spend a week in the vicinity of Kenora. He was to go around and investigate the dam building opportunities for rice culture on bodies of water that have been identified by the several Indian communities in the area.

Mr. McClellan: What happens now? What are your projections for the people?

Hon. Mr. Bernier: If I may just put a point in here—I mentioned to you earlier the crop this year was substantial, naturally. But the harvest was exceptionally low, lower than it has been in a number of years. I believe about 10 per cent was harvested or maybe less than that. I suppose that would mean a value of around \$1 million or less, and maybe \$7 million or \$8 million could have been harvested from natural grown wild rice. I just want to make that point.

Mr. McClellan: You made it.

Mr. Reid: What was the reason?

Hon. Mr. Bernier: There were a number of reasons—lack of pickers, of course, is number one. There was a severe wind storm just at the most inopportune time. Had the harvest been taken off a little earlier, that problem wouldn't have affected it. But it is disappointing that such a low harvest was picked this year.

Mr. McClellan: What does a harvester get?

Hon. Mr. Bernier: I think the price this year ranged from 60 cents to 75 cents. It was in that vicinity.

Mr. McClellan: And it retails for about \$6 a quarter pound.

Hon. Mr. Bernier: About \$2.95. You can buy it in Kenora for \$2.95 or \$3 a pound processed. If you want some, I will get some for you.

Mr. McClellan: No, thank you. Let me go back to the followup question around what you have planned. The minister seems to be assuming that there is no interest in the development of production of wild rice.

Hon. Mr. Bernier: I don't say no interest, but I wish there was more.

Mr. McClellan: Is that the basis of your policy? Are you doing your planning on the assumption that the work force in the communities is not interested in that form of commercial venture?

Hon. Mr. Bernier: No, not at all. We are doing everything we can to encourage them to get out and to harvest that crop. There is no question about it.

Mr. McClellan: What kinds of plans do you have for next year or do you consider the feasibility work has been completed?

[9:45]

Mr. Herridge: This final trip through the two reserves and in some other areas in the general area, hopefully will be made before freeze-up by the engineer and a representative of Manomin, which is the Indian wild rice marketing co-operative. When that is done, virtually all of the engineering expertise and cultural advice that we have on our own staff will have been made available to the Indian communities concerned. It is my understanding that the Indian communities concerned will then submit, through Indian Affairs, requests for funding to purchase materials to build dams on those bodies of water where the engineering advice has been that this could work.

Mr. McClellan: At this point, we have at least the beginnings of harvesting and marketing enterprises within the native communities, but I understand this is not true of processing. Is that correct?

Hon. Mr. Bernier: No processing within the native co-operative?

Mr. McClellan: Yes. I may be wrong; I am just asking.

Hon. Mr. Bernier: No, it is my understanding there isn't. There is just a gathering of the green rice at the present time; I believe it is taken across to the United States for processing.

Mr. Reid: A lot of it goes down to Minnesota, but some of the reserves in the area process their own rice.

Mr. McClellan: My question is whether any development assistance has been provided to enable the communities to develop an integrated operation so that they are not relying on external processors and are not being denied the main value of the enterprise.

Hon. Mr. Bernier: That wouldn't be for our ministry to provide.

Mr. Herridge: The Manomin corporation, which is the purchasing co-operative, was funded substantially through the federal government to the extent of several hundreds of thousands of dollars, and I suspect the further injection of moneys for the processing aspect of it would depend on the dependability with which the crop is harvested and a flow-through volume that would justify the investment in processing facilities.

Mr. McClellan: And it is your feeling at this point that the problem is with the work force rather than with the supplies.

Hon. Mr. Bernier: I think we would like to see more people picking the rice. There is no question about that.

Mr. Wildman: I just want to ask one short question. I don't know whether Mr. McGinn can answer this or someone else, but does the ministry provide any funds to municipalities or to other agencies in unorganized communities—for instance, roads boards or whatever—for resurveys in cases where there is a question over title of land and whether it belongs to the Crown or not? For instance, as you probably know, there are a lot of cases in unorganized territories where roads were built and nobody seems to know who has title to the land. Quite often, areas were surveyed and then roads were built in areas where they weren't supposed to be built, but it is quite costly for the people who own the property in the area to do the resurveying. I am told there are some programmes—one, I believe, is under the Ministry of Consumer and Commercial Relations, and there is also one under the Ministry of Natural Resources—and I am wondering if you could explain them.

Hon. Mr. Bernier: We have Bob Code here, the Surveyor General for the province of Ontario, who might want to respond to that particular question.

Mr. Code: Mr. Chairman, Mr. Minister, I am not particularly tuned in on the complete situation you described, but there are facil-

ities or ways of having what are called municipal surveys performed in which a survey to re-establish a lost or obliterated line is initiated by a municipality through a bylaw to have a survey made. In most cases, the Ministry of Natural Resources will pay one-quarter of that cost or, in any one year, an amount not exceeding \$5,000. Many municipalities have taken the opportunity of these to resolve positions of boundaries, particularly roads.

Mr. Wildman: Boundaries between municipalities?

Mr. Code: No, not necessarily between municipalities. These pertain to resurveys of surveys originally laid out in the first instance when the township surveys were laid out.

Mr. Wildman: Is that available to unorganized areas? For instance, let's say to a roads board. If there's a dispute over where the road's supposed to be, could an unorganized community get hold of that money some way?

Mr. Code: Yes, but it will depend on whether the road was what's called a forest or travelled or trespass road—

Mr. Wildman: Most of them are forced roads.

Mr. Code: —or whether it was one which was laid out or intended to be laid out along an original road allowance which was performed in the original survey.

Mr. Reid: But there is only so much money in the pot for that, isn't there? It runs out very quickly.

Mr. Code: Very little.

Mr. Reid: Yes.

Mr. Code: In connection with the forest or travelled roads, though, on occasion—and we haven't had many of these in the last 15 years that I know of—we have assisted local roads boards in defining the fabric of the township upon which they can hang subsequent surveys of the travelled roads; that is, the re-tracement that is required.

Mr. Wildman: I see. If I may be permitted, are you aware of a programme under Consumer and Commercial Relations where they will fund up to 50 per cent of a survey for any reason? Do you know anything about that kind of programme?

Mr. Code: I do know that there are provisions under The Land Titles Act for

judges' plans. These are surveys and plans prepared to existing occupation of lands. I was not aware, though, that they paid half the cost. I thought it was 25 per cent. But the circumstances may vary.

Mr. Wildman: I understand that they pay up to 50 per cent. That's all I wanted to know, Mr. Chairman, thank you.

Mr. Bain: Mr. Chairman, I want to discuss with the minister something that I know he's already familiar with. I won't give him a lot of background material because I know he's familiar with it. I would just like an updating on the situation. I refer to the caution that was placed by the Bear Island Indian Band in 1973 on 110 townships in the Temagami area. The caution, of course, was placed on all unpatented Crown land that remained in those 110 townships.

I've asked questions about this in the House. I asked one on April 1, asking exactly which ministry, either yours or the Attorney General's, was responsible for resolving the caution. At that time, I believe, 21 days elapsed before he responded. Basically, he said what I already knew, that there was a conflict between the two ministries as to how it should be resolved; the Attorney General felt it should be resolved through negotiations, while your ministry felt it should be resolved through the courts. Apparently from that time it was given to you to co-ordinate some sort of study; your ministry was to prepare a position paper that would go to cabinet and consequently the government would decide on what course of action it was going to follow to resolve the conflict.

I would simply like to know what stage this is at and when will you be telling the people of the Temagami area what methods you will use, whether you'll go through the courts, whether you'll go through negotiations, etc., to resolve the caution? As I'm sure you can realize, the time factor is what's causing difficulty. I was told that in 1973, if it had been resolved through the courts, it would have taken maybe seven years. I know some minor things have happened, but nothing really has happened along that line; so if we start, we still have the seven years to go if we're going to go the court route. Exactly what is your ministry prepared to do and what will you be recommending?

Hon. Mr. Bernier: This is an issue that has been before us some considerable time. It's a very complex issue, as you correctly

point out. There has been contact made over the summer among our staff and the legal people of the band council in question and the chiefs themselves. I'd like to call on Jim Keenan, who's the executive director of our lands division, just to bring you up to date as to where our negotiations and discussions stand.

Mr. Keenan: Mr. Chairman, Mr. Minister, there are really two issues involved in this. The first of these is the caution that has been registered against the 110 townships on the strength of an interest which the Bear Island Indian band believes it has in the land. Of course, this caution, as you've indicated, sir, is causing hardship in the area. During the past summer, as the minister has indicated, the representatives of the ministry have made contact. I might say that the ministry has appointed Mr. Ted Wilson as a special adviser in this area of Indian land claims. He was at that meeting.

What is happening now is that we are attempting to determine ways of dealing with the caution while waiting for the claim that the Indian band may file with Ontario. It has not done this as yet, so that at the present time Ontario does not have a claim to deal with, but it has the problem of the caution to deal with. Recommendations are in process now for attempting to deal with this. I couldn't give an indication of when that might be resolved.

Mr. Bain: Just to pursue one point you raised before I get back to what will be the overall thrust, correct me if I misconstrue what you're saying. The caution, then, you're going to follow through whatever avenue you choose, but in the meantime you want to find some method of alleviating the immediate hardship. If a person wants to get a title to land—and many of these people already have land, they were sold land by the Crown and they built on that land but in the meantime they never actually got title, and now the ministry won't give title—are you considering, then, and I think you should do this, giving these people title—and they are perfectly willing to accept this—with the caution registered as part of the title?

You know, you can buy a piece of land from somebody even if there's a caution registered against it, and you know that you're accepting the obligation that there is a caution registered against it. But you can still buy the land and still get title. Are you considering giving the people who've bought Crown land or who might like to buy Crown land—if it's within the minister's development

plan, if it meets those criteria—will you in fact then sell them the land and they would be able to get the deed with the caution registered against it?

Mr. Keenan: Sir, if I might respond to that, recommendations are in the process of being made to the minister, which he has not received, to determine how this might be dealt with. I don't think it would be appropriate for me to speak at this time about specifics, but obviously the attempt is, through whatever process, to relieve the burden that you speak of.

Mr. Bain: So you're willing then to relieve the situation so that people can enjoy the normal development that any community is entitled to, before the caution is finally and ultimately resolved? You're going to provide some sort of mechanism and you're just not at liberty to tell us what mechanism at the moment?

Mr. Keenan: No, I didn't say we were going to provide a mechanism. I said that at the present time we were attempting to deal with the overall question of the caution.

Mr. Bain: Without telling me what you're planning and recommending, are you addressing yourself at all to the question of people being able to get title to their land in the interim before the caution is eventually resolved?

Mr. Keenan: This problem is one that we're aware of and is certainly part of the considerations.

[10:00]

Mr. Bain: I am sure the minister appreciates that this has gone on now for three years and the people in the Temagami area realize this is something that can't be resolved overnight. But, as you said, basically nothing has changed in three years, so what they would like to know is what exactly the government is going to do. When do you feel that you will be able to have read the report? You don't have it yet? When do you feel you will be able to have read the report and presented it to cabinet and that the government will make a decision as to what avenue they are going to proceed? When will you tell the people what you are going to do and let them know? Right now the government has never told those people anything for the last three years and the people are beginning to get very upset, and quite legitimately so. They say if this caution was placed on Toronto you can rest assured the government would do something about it but

because there's only about 8,000 people in the Temagami area the government is not doing anything. So when will you tell the people what you are going to do?

Hon. Mr. Bernier: I want to point out again that we are doing things. We have appointed a special co-ordinator in Ted Wilson who has gone into the whole aspect of Indian land claims, which is a very complex issue. We moved so far as meeting with the band council, getting their reaction and some thought as to where they want to go. It's a complex issue. There's no question about it. We are dealing with issues that go back, somebody said to me the other day when we were talking about it, to Magna Carta. It's that far back. You could go that far, to the signing of the Great Proclamation, and so the research is just literally fantastic.

At this time, I just can't give you a date, a period of time, when we will come to grips with it. I just have to give you assurance that we are very cognizant of the problem. We are involved ourselves with regard to issuing mining patents. It's causing us a great deal of concern and a great deal of problems within our own ministry. We are anxious to get down to the roots of it and resolve it. I can just assure you that we are moving on it as quickly as we possibly can.

Mr. Bain: As I said earlier, I appreciate the complexities of the situation. The problem is that for a long time—and I've got this by discussions with the two ministries—the Attorney General's ministry was under the impression that your ministry was going to resolve it and your ministry was under the impression that the Attorney General's office was going to resolve it through the courts. I was flabbergasted to find this because once I talked to people in your ministry and I was told that the Attorney General's ministry was going to resolve it, I waited a month or so before I phoned them because I thought they must be working on it.

You can imagine my amazement when I phoned them and they said: "Oh, no, there must be some mistake. We are not going to resolve it at all. We've made it quite clear to the Ministry of Natural Resources that they should resolve it through negotiations." It's enough to shake your faith in the provincial government when you get that kind of a response.

An hon. member: And you haven't got the federal government involved either.

Mr. Reid: You get over that when you are here for a while.

Mr. Bain: As I said earlier, I realize the complexities but really what the people want is a statement from the government. If you say you will be able to give them an idea within a month, two months or three months, that's fine.

And that time they will be able to expect something from you. You can say either we are going to resolve it through negotiations and, if we don't get it resolved through negotiations within a year, we are going to take it through the courts. Just tell the people where they stand and what sort of avenues you are going to pursue in an effort to resolve the caution.

Hon. Mr. Bernier: It's obvious you know that until we get the recommendations from our staff and deal with it at my level and take it to the policy field and to cabinet, we've got a few hoops to go through yet. I can just assure you that we will move on it as quickly as we possibly can. We want to get it cleaned up and get it settled and agreed to as quickly as possible. We are not going to sit on it. We are moving on it and we are going to continue to move on it.

Mr. Bain: Within three months time people should have a pretty good idea what direction you are going to go in?

Hon. Mr. Bernier: I don't want to give any special time because you will hold me to it.

Mr. Bain: You bet I will hold you to it.

Hon. Mr. Bernier: If I am a day late, then I'll be in trouble.

Mr. Bain: No, no, if you are a day late that won't matter.

Mr. Makarchuk: If you are a day late you'll be surprised.

Hon. Mr. Bernier: You have my assurance that we will do everything we can to move as quickly as we can on it.

Mr. Bain: And it won't go on for another three years without anything?

Hon. Mr. Bernier: I can assure you it won't go on for another three years.

Mr. Bain: I hope not even another year.

Mr. Laughren: A question on land title: The ministry issues land use permits—I am talking about unorganized areas now—and I understand the need for that and the purpose of them, I believe, but I think there is something going on that's not fair when someone lives in a built-up area and has a land use permit that must be renewed every year so

that the person is very edgy about making improvements. It may even be in a town. I am not talking about an isolated hunting camp. You have burned all those down.

Mr. Bain: The ministry says it doesn't burn things down.

Mr. Laughren: Scorched earth policy.

Hon. Mr. Bernier: Forest fires do.

Mr. Laughren: Yes, you are setting your own forest fires.

An hon. member: They're very well controlled.

Mr. Laughren: I am wondering, when the area is built up and when it's obvious that it's a permanent community even though it might only be 10 homes, why you do not allow your people at the district level to issue land use permits to provide some security of tenure for those people.

Hon. Mr. Bernier: A land use permit, under the whole structure of a land use permit, is only given for a year. It's just a year. If you go beyond that, then you go into either a lease or some ownership, and there must be some specific condition or some reason why there is no longer tenure than one year. That's all I can say, unless I looked at a specific situation to give you an answer.

Mr. Laughren: So the answer for those people probably is to try to get the land use permit changed to a lease.

Hon. Mr. Bernier: Yes. As an example, under our remote cottage site programme where we will give an individual a remote cottage site—one acre, designated lake; we have that programme in place now—it can be by land use permit where the individual does not have to pay for a survey, but if he wants a 10-year lease, then he has to go out and pay \$300 or \$400 for a surveyor to come in and survey his property and get it officially documented, and he gets a 10-year lease with the right for another 10-year renewal. A lot of them don't want to do that. They say, "No, I will just waive that ownership aspect for 10 years and take a land use permit each year, provided I am assured it will be renewed."

Mr. Laughren: That's the remote cottage programme?

Hon. Mr. Bernier: Remote cottage programme.

Mr. Laughren: May I ask you, now that you have raised it, to what extent was there

discussion among your district offices prior to that announcement being made?

Hon. Mr. Bernier: We circulated an information package. They met with the regional staff to get some ideas as to how we can open up more wilderness-type cottages and cottage sites.

Mr. Laughren: And there was support from the districts in that programme?

Hon. Mr. Bernier: Oh yes, very much so. Oh yes, right across northern Ontario. It is a very attractive programme and it is one that has been very well received, where an individual can get a remote cottage site off the main highway. He might have to take a boat in or take an airplane in. He doesn't have to put up an elaborate cabin. In fact, under the terms of reference, he can't. It's a 400-square-foot cottage, one story, with a dry toilet and a water pail, no septic tank and no running water. There are hundreds of people in northern Ontario who want that type of wilderness experience and that type of seclusion.

Mr. Laughren: I had a constituent complain to me that I was against snowmobiles because I probably didn't own one, and he was right.

Hon. Mr. Bernier: You don't own a snowmobile?

Mr. Laughren: Right.

Hon. Mr. Bernier: Living in northern Ontario?

Mr. Laughren: That's right, and I live rurally. He told me that I just didn't understand what it was like to get on a snow machine and drive 10 miles into the wilderness where there was complete silence. I admitted that was true.

Mr. Reid: It sounds like a typical NDP statement.

Mr. Williams: I have several questions to deal with on Crown lands and cottage sites. One that concerns me considerably is the fuzziness that still surrounds the 66-foot road allowance situation that exists on many northern lakes where there are cottage subdivisions.

Mr. Reid: Probably the president of your riding association—

Mr. Williams: Seems that historically, from the Crown grants on down, there's always been some provision made for some type of right of access to the shoreline of the inland

lakes and rivers. In some instances a specified distance back from the shore has been prescribed, which has been the traditional 66 feet. In other cases there was simply a right of access to the land at any point on the inland waters. So there are a number of different situations that exist.

In other cases there have been Crown lands where there's no reservation of road allowances or right of access. I know that this has come up from time to time in previous Legislatures and has been of some public concern at an earlier point in time. I'm not aware of it having been very much of an issue recently but I don't think the problem has gone away because of lack of the issue being highlighted. I was wondering where your ministry stood in trying to correct the inequities that seem to exist, for example, with regard to ownership down to the shoreline of lakes by cottage owners. Where do you stand with regard to these various restrictions or provisions that exist in grants that have been made by the Crown to individual property owners?

Hon. Mr. Bernier: I'd like to call on Jim McGinn who is certainly an expert in this particular issue. We've had many discussions.

Mr. McGinn: Mr. Chairman, is the question you are asking what is the difference between a road allowance and a 66-foot Crown reserve?

Mr. Williams: No I'm recognizing that differences do exist but because there are several ways where the Crown retains interest in portions of cottage properties there is confusion in the public mind as to why these differences continue to exist. They wonder why the government hasn't taken some initiative to either standardize the interest they have in the land or make available to the private property owners the right to obtain full title and interest in those reservations.

Mr. McGinn: It depended on when a township was surveyed, sir. In the setup of a township fabric the surveyor may have laid out road allowances along the shores of lakes and rivers and so on. Where the road allowance was laid down by municipal government then it is under the jurisdiction of the municipality. It doesn't stay under the jurisdiction of the Crown.

Dependent on the survey fabric again, there may have been other townships in which there was no road allowance laid down by the surveyor of the day. The

Crown, in order to protect its own rights to the bed of the lake, laid down a 66-foot Crown reserve on the shore of the lake, and this maintains to this day. The reason for the 66-foot Crown reserve is a protection of the Crown to the bed of the lake against the riparian rights that may accrue to the adjacent owner.

Mr. Williams: It is my understanding that these 66-foot Crown reserves, as differentiated from the road allowances which rest in the municipalities, run from the high water mark of the body of water back from that point. Is that not correct, on these Crown reserves?

Mr. McGinn: You mean on the road allowance, sir?

Mr. Williams: On the 66-foot Crown reserve.

Mr. McGinn: Yes they do. They go from the high water mark back and they are surveyed out by the surveyor. For example, when a summer resort subdivision is laid out, then the 66-foot allowance is surveyed out at the same time.

[10:15]

Mr. Williams: This was done historically but that's not the case at this point in time surely?

Mr. McGinn: Yes it is.

Mr. Williams: You are still setting aside the 66-foot reserve?

Mr. McGinn: Yes, sir.

Mr. Williams: I understand there is a different setting, such as along the vast shorelines that you would find in Georgian Bay or the Erie shore or whatever, as contrasted to the inland lakes and rivers where there isn't ready public access available. Are they also doing this in those types of settings?

Mr. McGinn: When a Crown subdivision is laid down for summer resort purposes and so on, there is the 66-foot Crown reserve laid down.

Mr. Williams: This is being done also on land-locked lakes where there is no other access?

Mr. McGinn: Yes.

Mr. Williams: What about the situation where the Crown reserve is laid on and a back road around the lake behind the lots that are laid on by the Crown is developed,

so that you have in fact a 66-foot reserve at the front by the water and a matching 66-foot road allowance at the rear of the lots?

Mr. McGinn: There's access to the lots themselves and in the front there is also access for the public across the front or access to the lake. There are many lakes that we do have where the public can't get to the lake at all and we get into an awful lot of difficulty with that.

Mr. Haggerty: Like Lake Erie. The barbed-wire fences are still there.

Mr. McGinn: Surprising as it may seem, Mr. Haggerty, I think there is only about six or seven per cent of the shoreline on Lake Erie that still remains in the Crown.

Mr. Cunningham: How about Lake Ontario around Burlington?

Mr. McGinn: There is very little Crown land or access to the lake.

Mr. Cunningham: You can say that again.

Mr. Williams: Let me take a hypothetical situation, say a small inlet in, say up in the Parry Sound-Nipissing district, where you might be able to lay on 75 summer resort lots, a lake surrounded by your own subdivision process of 75 lots for individualized use by the people who decide to acquire those lots as made available by the Crown. What is the purpose of putting on that 66-foot reserve on that shoreline when the only people that can possibly have access to it are the people who have acquired an interest in those lots as made available by the Crown, as contrasted to the Wasaga Beach area, where thousands of people have access to that given area because of the openness of the area and the accessibility from different directions?

Mr. McGinn: First off, if the lake is pretty well surrounded by cottages and the land has been alienated from the Crown, how are the public going to get to the lake to enjoy motor boating or fishing or whatever it is, when they have not access to get to the lake?

Mr. Williams: Even if there is an access road to the lake to enjoy the fishing, why should they be utilizing the lots that the people have acquired from the Crown, which in effect is what you are doing by reserving the 66-foot strip.

Mr. McGinn: I suppose the only answer I can give to you is you can't have it two ways. We get great pressure from one side not to impose the 66-foot reserve because they want

to keep the public out and on the other side we have the public saying they want to have access to the lake and access to the shore.

Mr. Williams: I am not quarrelling with that. I think there are valid settings where you do want to have that reservation so that the public can have full access. As I say, I am contrasting the Erie shoreline with the Georgian Bay shoreline where there is a vast open stretch of water where it would appear appropriate to give the public a great deal of access. I don't see how you can equate that to the small isolated lake where there is a very small number of people who can effectively make use of that lake. Why should you, in that instance, want to open it wide to the public and give them access to the properties that these people have already acquired from the Crown? It's a more isolated setting, where it wouldn't seem as appropriate as on Georgian Bay.

Mr. Bain: The minister should be answering that. That's a matter of policy, is it not?

Mr. Germa: It's good policy too.

Mr. Bain: I would assume the minister would defend that policy.

Mr. Laughren: I think there should be a subcommittee of the Tory caucus to make a decision on this.

Mr. Germa: I hope the minister isn't taking this thrust seriously. He wants the private ownership right to the waterline. That is probably the most ridiculous proposition I've ever heard.

Mr. Williams: I think it's a sound proposition.

Interjections.

Mr. Williams: I think it's the confusion, Mr. Minister, over these different policies that I think—

Mr. Bain: You just don't like the present policy, that's all.

Mr. Williams: —is disruptive to the public at large. I'm wondering if your ministry has been giving any consideration on a policy basis to trying to minimize some of these inconsistencies.

Hon. Mr. Bernier: I think it's the policy to continue the 66-foot public reserve on new subdivisions. It's still built in. Certainly, I know the circumstances as they relate to the Great Lakes shoreline around Lake Erie. It's been brought to my attention on many occasions.

Mr. Haggerty: On a number of occasions.

Mr. Laughren: In other words, you're not taking him seriously.

Mr. Williams: Then, Mr. Minister, why is it that some lakes don't have any allowance whatsoever around them, either a road allowance or a 66-foot reserve? There's the inconsistency that baffles the people.

Mr. Stokes: They were alienated before the present law came into effect.

Hon. Mr. Bernier: That's right. There were certain situations. I know on my own lake, where I have my own cottage, some of the lots have—

Mr. Haggerty: Do you have your own lake, Leo?

Mr. Bain: It's beside the one with the fish.

Mr. Cunningham: What kind of fish do you have?

Hon. Mr. Bernier: But at that particular time when they were surveyed, the summer-cottage-lot property went right down to the high water mark, and right beside it lots that were sold at a later date had the 66-foot reserve. It's causing confusion, as you correctly point out, but we're still going along with the 66-foot public reserve.

Mr. Laughren: Well, as the member suggested—

Mr. Williams: There's another situation, Mr. Minister, that's come to my attention.

Mr. Laughren: Can I ask a question? What I don't understand is whether or not you're suggesting that the 66-foot limit be removed or not.

Mr. Williams: In some instances, yes.

Mr. Wildman: Then there'd be more inconsistencies.

Mr. McLaughren: In what instances?

An hon. member: On his friend's lot.

An hon. member: It doesn't make sense.

Mr. Williams: Perhaps you weren't listening.

Mr. Bain: Oh, yes he was. He understands what you're saying.

Mr. Williams: There's a valid distinction to be made between the small inland landlocked lake that can accommodate maybe 10 or 20 lots, as contrasted to a shoreline like Wasaga

Beach where you may have hundreds of lots involved and great amounts of shoreline that should be available to the public. So I think there are different settings that could accommodate different situations.

Mr. Reid: You were complaining about the inconsistencies a minute ago.

Mr. Williams: But, Mr. Minister, a problem that's come to my attention, and it may or may not come within your ministry, is a situation where subdivisions have been laid on around a small lake or cottage development, and blocks have been reserved by the municipality supposedly for municipal purposes. I've heard of instances where the blocks have been conveyed off to the municipalities for municipal purposes and the municipalities, in turn, have turned around and disposed of and sold those lots for cottage use. Has your ministry had any involvement in that type of situation or is this—?

Hon. Mr. Bernier: I believe, and the staff might want to correct me on this, but I believe that would be approval of the Ministry of Housing. Once the property is transferred in fee simple title, then it becomes municipal ownership. Of course, if they want to subdivide it, they would have to get the approval of the Ministry of Housing. So we wouldn't be involved.

Mr. Williams: With respect, I know of situations where the municipalities have sold the blocks off without any ministerial approval whatsoever.

Hon. Mr. Bernier: I wasn't aware of that.

Mr. Williams: And then we find private cottages being put on lots that were originally reserved for public use.

Hon. Mr. Bernier: That might be something you might take up with the Minister of Housing (Mr. Rhodes) and get some clarification as to how that was accomplished.

Mr. Williams: I'm wondering whether it would be, if not your ministry, TEIGA rather than Housing?

Hon. Mr. Bernier: At that time it could have been TEIGA that allowed it—it was several years ago. Housing does have that authority today.

Mr. Stokes: Don't you think it would be a good idea, before you alienate that even to a municipality, that the ministry should be given first right of—

Hon. Mr. Bernier: It should come back to the ministry—public ownership, yes. That's a good point.

Mr. Williams: Just two other points if you could comment on them. What is the current situation with regard to summer cottage lots that have been laid on by the Crown for sale or lease?

Hon. Mr. Bernier: What was that again?

Mr. Williams: What is the present situation with regard to your ministry in making available Crown lands for summer resort use?

Hon. Mr. Bernier: We have a very ambitious programme, particularly in northern Ontario. Because of the very little amount of Crown land in southern Ontario much of our summer cottage thrust has to be in northern Ontario. This year I think we had something like 700 or 800 lots that were made available in northern Ontario. Our goal is about 1,000 per year. Some of these are sold on a draw basis, where we have a very high demand and just a limited number of lots available to the public. We invite those who are interested to submit their names and we hold a public lottery. This has been very well accepted in many parts of northern Ontario. Where we have a surplus of lots and fewer demands then they're on a first-come first-served basis. It's very difficult to sort it out. We went a number of different ways over the years. I remember some on a tender. That put a lot of lots out of reach of the average individual. Then we had a situation where we tried a first-come first-served basis and they used to line up in the ministry offices sometimes 48 hours ahead of time and camp right there in the office. So that causes some—

Mr. Vice-Chairman: Can you make it fast? We have only got two minutes.

Mr. Williams: Are they being laid on on a regionalized basis, spread across the north country?

Hon. Mr. Bernier: Yes. Each district is asked to make sure that they have a certain amount of summer cottage lots available. The remote cottage site programme has helped in providing and filling the need in many parts of northern Ontario. We do try to make lots available in every district in northern Ontario.

Mr. Williams: Is there a provision still, as I think there was at one time, that to acquire

a Crown lot that you had to put a facility worth so many dollars on the property within a given period of time?

Hon. Mr. Bernier: Yes, that is still in effect.

Mr. Williams: And what is it? Two years or 12 months?

Hon. Mr. Bernier: Within two years.

Mr. Williams: A two-year period. And what is the valuation now?

Mr. McGinn: I think it's \$2,000, Mr. Chairman.

Mr. Williams: Does the purchaser have to pay for the cost of the reference plan that has to be prepared for the site?

Hon. Mr. Bernier: The survey, yes, that's his responsibility.

Mr. Williams: I see. I've time for one more question. What's the Crown land company status?

Hon. Mr. Bernier: The Crown land camping policy. That's an experiment and it'll take me a little while to answer that, Mr. Chairman. Could we carry on in the morning. It'll take me at least 10 minutes to get into it and I want to explain to the committee some of the reasons why we're going in a certain direction.

Mr. Vice-Chairman: Could we carry this item perhaps and then we'll start—

Mr. Williams: No, I'm sorry, Mr. Chairman. That's what we're talking on. How can you carry it when we're discussing it? Don't be ridiculous.

Interjections.

Mr. Wildman: Mr. Chairman, I understood that the—I can't remember the gentleman's name now and he's not here—but one of the gentleman involved in the mining branch was going to find out for me why it took so long for an inspection to take place.

Hon. Mr. Bernier: Oh, Mr. Jewett—

Dr. Reynolds: Would you like to have that now and we could talk to—

Mr. Vice-Chairman: We'll meet tomorrow after question period.

The committee adjourned at 10:30 p.m.

CONTENTS

Thursday, October 28, 1976

Land management programme	S-2363
Forest protection, air service, extra firefighting	S-2363
Resource access	S-2370
Land and water classification	S-2374
Land, water and mineral title administration	S-2376
Adjournment	S-2389

SPEAKERS IN THIS ISSUE

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 Bernier, Hon. L.; Minister of Natural Resources (Kenora PC)
 Cunningham, E. (Wentworth North L)
 Ferrier, W. (Cochrane South NDP)
 Germa, M. C. (Sudbury NDP)
 Godfrey, C. (Durham West NDP)
 Haggerty, R. (Erie L)
 Johnson, J.; Vice-Chairman (Wellington-Dufferin-Peel PC)
 Lane, J. (Algoma-Manitoulin PC)
 Laughren, F. (Nickel Belt NDP)
 Makarchuk, M. (Brantford NDP)
 McClellan, R. (Bellwoods NDP)
 Reid, T. P. (Rainy River L)
 Spence, J. P. (Kent-Elgin L)
 Stokes, J. E. (Lake Nipigon NDP)
 Wildman, B. (Algoma NDP)
 Williams, J. (Orisle PC)

Ministry of Natural Resources officials taking part:

Bugar, R., Director, Land Use Coordination Branch
 Cleavelley, W. G., Executive Director, Field Services Division
 Code, R. G., Director, Surveys and Mapping Branch
 Giles, J. W., Assistant Deputy Minister, Lands and Waters
 Herridge, A. J., Assistant Deputy Minister, Resources and Recreation
 Jewett, G. A., Executive Director, Division of Mines
 Keenan, J. W., Executive Director, Division of Lands
 McGinn, J., Director, Lands Administration Branch
 Reynolds, J. K., Deputy Minister



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SUPPLY COMMITTEE—2

ESTIMATES, MINISTRY OF
THE ATTORNEY GENERAL

OFFICIAL REPORT — DAILY EDITION

Third Session of the 30th Parliament

Thursday, October 28, 1976

Evening Session

Speaker: Honourable Russell Daniel Rowe

Clerk: Roderick Lewis, QC

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CONTENTS

A list of the speakers taking part in the debates in this issue of Hansard appears, in alphabetical order, at the back of this issue.

Daily contents of proceedings also appears at the back of this issue. Reference to a cumulative index of previous issues can be obtained by calling the Hansard Reporting Service indexing staff. (Phone 965-2159)

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LEGISLATURE OF ONTARIO

SUPPLY COMMITTEE

THURSDAY, OCTOBER 28, 1976

The committee resumed at 8:05 p.m.

ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL

(continued)

On vote 1201, law officer of the Crown programme; item 2, Deputy Attorney General:

Mr. Vice-Chairman: Mr. Stong is not here so I will ask if anyone else wants to make any comments on this item of vote 1201, or any other item?

Mr. Renwick: I want to make a few comments but I defer to my colleague.

Mr. Lawlor: No, I am finished with this vote.

Mr. Renwick: I think my first comment is a question. The whole question of race relations in either Metropolitan Toronto or in the province as a whole is very high at the present time and I would like to know whether or not it would be conceivable, in a relatively unstructured estimates matter, to set aside a specific period of time when we might talk dispassionately about those problems rather than have them come in by inadvertence. I didn't have a chance to speak with my colleague about it. Is it possible that we could set aside a particular session of the estimates to deal with that in a connected way? Part of it is self-serving because I have a considerable amount of material, as I know others have, and I am not in a position to go ahead and discuss it tonight but I want very much to deal with it. I think it is important that this committee do look at its dispassionately and try to sort out some of the problems which are involved in that area. Is that possible?

Hon. Mr. McMurtry: I am certainly very agreeable to doing that. I don't have any particular views as to what particular vote but if we could agree on a specific time to discuss that, I would be very happy to do that. I would be happy to suit your con-

venience and anybody else's. I will be here throughout and I think it's very important.

I might say, Mr. Renwick—this is sort of indirectly related—I have thought about the remarks you made the other night in relation to the Law Society and its provisions in regard to citizenship. This isn't perhaps quite on all fours with what you are thinking of but I wanted to indicate to you that, in our view, raising this matter as you have is a matter of some interest to us. I thought you would be interested that it is our intention to refer the matter to the Ontario Law Reform Commission for review.

We know what was said by Mr. Justice McRuer a few years ago; we think the whole policy should be reviewed and we are going to ask the Ontario Law Reform Commission to do that. I thought you might be interested in that. That sort of touches on the problem and I thought I would mention that at this time.

Mr. Renwick: The other basic areas are of immense concern to me in my own riding and certainly in other areas. I would like to have an opportunity to discuss it and if the committee does sit next Wednesday I would suggest we perhaps set aside, not necessarily a specific end to it, but at least a beginning; that we would start on Wednesday morning when the committee convened or Wednesday afternoon, and spend an hour or so or longer, if necessary, on that particular topic.

Mr. Vice-Chairman: Okay. I think it is certainly agreeable that perhaps the two critics could work out an allocation of time—maybe at the end of the estimates or any particular time which suits both of them. We will work something out. Wednesday sounds agreeable to me. If we get moving, we might even get this vote done by Wednesday.

Mr. Renwick: I am very pleased about that comment of the Attorney General about the particular question of whether or not citizenship is a significant requirement for eligibility to practise law in the courts in the province of Ontario. I have always salved my conscience by being involved in the question

that the legal profession is different from all the other professions on the grounds that there is something involved in the administration of justice and you are an officer of the court and maybe the oath of loyalty question is a significant one.

Perhaps I tend to think that close scrutiny of it would indicate that it is not really necessarily a valid argument. I am delighted that it is going to be referred. I had a brief word with the deputy before the session convened and I was most anxious that the gentleman in London, Ontario, who wrote to me about it should have an acknowledgement from the ministry simply indicating the matter had been referred and that the work which he had done was being referred to the commission because the particular person concerned had done a significant amount of work in that field.

Hon. Mr. McMurtry: Yes, we will certainly look after that.

Mr. Lawlor: A week ago tonight, I believe, the Attorney General gave a speech at the Park Plaza on minority problems. I am not aware if I have a copy of that. If it is available before this next Wednesday's debate certainly I think members of the committee would like to peruse it.

Mr. Vice-Chairman: Any further questions on any item in this vote?

Mr. Renwick: Yes, Mr. Chairman, there is one other item and, indeed, a second one although perhaps I can deal with the second one later on in this particular vote when we come to royal commissions.

[8:15]

I want you to believe me; I am not engaged in rethrasing old straw about past constitutional matters at all but I would be very interested in whether or not the Attorney General has considered or will consider the decision of the Ontario Labour Relations Board of the Dominion Glass-United Glass and Ceramic Workers of North America case? You will recall that in connection with the day of protest, the board felt there was a very significant constitutional question which had been raised by the application, in the circumstances in which it was raised.

They decided for very good reasons not to grant an injunction in the particular instance because irremediable harm might be done to those of that union who wished to participate in the day of protest if, ultimately, the question should be decided that there was a constitutional lack of jurisdiction in the labour

board to deal with that particular question. I haven't gone into it and I can't conceive that I am going to have the time to go into the actual legal argument about it. I am not particularly interested in discussing the substance of that argument.

I just wondered whether or not the Attorney General is giving it consideration or considers it a significantly serious problem and is at least taking under consideration the possibility of referring it, under The Constitutional Questions Act of the province, to the Supreme Court of Ontario for consideration. If necessary, the matter could then be dealt with presumably under notice to the Attorney General of Canada and could ultimately, if necessary, go to the Supreme Court of Canada.

I do think that if a board of the status, in Ontario, of the Ontario Labour Relations Board raises in depth that kind of question, on balance it is unwise to leave it in limbo and not have it considered and dealt with. I make that comment not with any particular partisan view as to whether days of protest by organized labour and others should or should not take place or what the background or reasons were but because of the centrality of the position of the Ontario Labour Relations Board in the whole field of labour-management relations within the jurisdiction of the province of Ontario. I would appreciate some indication from the Attorney General as to either the ministry's intentions or concern or what it may be considering about it.

Hon. Mr. McMurtry: Yes, Mr. Renwick, we are aware of the fact that the constitution issue was raised in this case. I must state quite frankly that I haven't read the case. Of course, I want to read the case as soon as I can. In view of the impending opening of the Legislature, it's a matter of particular interest to me but I just haven't had an opportunity to pursue it. I would certainly do that and let you know before the estimates have been dealt with by this committee just what our views are.

Mr. Renwick: I would like to have a definitive statement from the Attorney General either now or before the House rises. It's obviously not a matter that there is going to be another day of protest next month but I think the questions are important. I would urge in your consideration of it the possibility, at least, if not the probability, that your conclusion would be to refer it under The Constitutional Questions Act to the Supreme Court of Ontario for their review and consideration. I don't think you can leave the

Ontario Labour Relations Board in an ambivalent position in connection with that issue.

Hon. Mr. McMurtry: Yes.

Mr. Roy: Mr. Chairman, for lack of a better place, I would like to raise one short matter here. I appreciate again that this is a situation, Mr. Attorney General, which deals with a question of policy overlapping a number of ministries, certainly the Ministry of the Solicitor General and police action. It has to do with the situation of parking tickets and speeding violations which are unpaid and then you get into a situation where you are stopped some evening by the police, on a Sunday night or something, and with the new system they can check in and see if there is anything against your name. They find out that there are three parking tickets and two speeding violations and, you know, take you in. If you don't happen to have the cash—I guess it's cash, they won't take cheques or anything else—you can spend a night in the cooler. I've seen different situations where this has happened. We have a system now whereby on fines which go unpaid in our courts, you get a letter, I think from the Ministry of Transportation and Communications, saying if you don't pay it by such and such a time your licence will be suspended. I think that is a more effective way than chasing people around. And I raise this case because not long ago, back in August of this year, there was an MP from Quebec, a fellow by the name of Serge Joyal, a guy who is bucking Trudeau a bit on this airlines thing, the French thing—

Mr. Renwick: We don't need to introduce politics.

Mr. Roy: In any event, I just want to give you a bit of background on the individual picture. He was coming back from Montreal, I think on the Sunday night, and at 1:20 a.m. he was stopped on Highway 417 near regional road 27, which is outside of Ottawa. The policeman stopped the car and asked him for his driver's licence, and returned a few minutes after doing his routine check and he was advised that he owed a \$46 ticket, I think, for some violation, plus a \$12 parking ticket from the RCMP. At that time he had \$2,000 worth of cheques on him. He offered to endorse these and leave them with the police and they said no. They took him down to the detention centre and he spent the night there; and was given a uniform and searched, the whole bit. He was asked to clean up his cell in the morning and released after his secretary came in and paid the fine.

The reason I raise it with you is that this seems to be an antiquated way of dealing with it. Why don't we use the same system, as we do with fines from the court, that there be a relationship between the Ministry of the Attorney General, the Solicitor General, Transportation and Communications, and deal with it in that fashion?

I appreciate there is a special situation here. He's got a driver's licence, likely from Quebec. But we deal with Quebec, there are relationships there; you know we suspend licences from Quebec. If someone loses his driver's licence in Ontario we advise Quebec and they take his licence away.

I just think it is a more humane and practical way of dealing with it, rather than hauling someone in. You know it's amateurish, really, when you do it.

I raise this case, because I have had two or three people call up on some Sunday nights saying the police are over here and they want to get paid for so many of these traffic tickets. Why don't we just slap computers on their licences and say if you don't pay these your licence will be suspended? I would think it would be a much more effective way of doing it than this type of approach. I just wonder if you agree with me or is there a technical reason why we can't do it?

Hon. Mr. McMurtry: Yes, I agree with you absolutely and we are seriously—we have had numerous discussions with MT and C, and I gather there is some problem with relation to the computer arrangements, and the Solicitor General in connection with this. Quite apart from the inhumanity of it, and the archaic character of proceeding in that way, we're also concerned about cluttering up our correctional institutions, detention centres, with that type of individual. We're working toward a solution which would avoid any incarceration and which would be tied to the licences and licence suspension. I know the Deputy Attorney General has been concerned about this for some time. Perhaps Mr. Callaghan, you can add to what I've said.

Mr. Callaghan: Not really, other than we have a basic problem with the computer at MTC right now trying to get it to adopt a plate-to-owner system, which is not the way it's set up presently. It's a licence-to-person system and this has created quite a problem.

Mr. Roy: I'm sorry. You say it's set up now for the drivers' licences, not the plates on the car?

Mr. Callaghan: Right. The car plates are the best way to do it. At least so far they've

proved the best way to do it. So the Solicitor General, our ministry and MTC have been working on, hopefully, a conversion of their computer; but these things run into many roadblocks in trying to implement them and I hope the government in the next couple of years will come around to the point where the computer could be reprogrammed.

Mr. Roy: Because I think it was under Dalton Bales' ministry that we brought in—

Mr. Callaghan: Well, we brought a suspension-default system in which has worked reasonably well, but that's a manual system which is run out of our ministry by four or five very dedicated old ladies who work with eye shades and pencils, and we've never had enough money to computerize it. We've argued for it for years and sooner or later we'll get around to it. But that system has worked reasonably well. We've got a situation where 80 per cent of the people we suspend pay up eventually. But to try to introduce that right across the province really requires conversion of the MTC computer, which creates great internal problems for them, I guess.

We're hopeful that over the next couple of years we'll be able to work it out. Our little system was introduced in 1973 for the purposes of suspending the licences of those who were in default of payment of their fines and it has worked reasonably well, except it's not a computerized system, it's a manual system and it's something that should be computerized. I'm not sure exactly what the figures on it are. We have an 89 per cent reinstatement rate on it with our four old ladies doing it.

Mr. Lawlor: Well you're raking in the money there.

Mr. Callaghan: That's right. We've got total suspensions as of September 30 valued at \$5.5 million dollars; we've reinstated \$3.5 million; we have outstanding, \$2,073,000. Sometimes it's hard to make these figures stick in places we should, but these ladies are worth an awful lot more than they're being paid. If we could expand that system by way of a system whereby the MTC computer is programmed to accept this system, which they have refused to accept up to this point, the government and the province could, I think, do a very effective job of refusing to renew a person's licence for failure to pay fines. That's the way it should be done. But in order to do that you really have to deal with the licence plates on the cars as opposed to the driving licence of the person,

to really make it effective. This is the problem, because right now the whole thing is programmed to deal with the licensing of the person rather than the car. This requires a switch in the actual programme. Right now we're working on it and I'm very hopeful that we will come up with something.

I agree with you. The way it works now is just not appropriate. Many things could be dealt with. We could relieve the congestion in the courts tremendously if the fact that the person who commits a traffic violation or breaches The Highway Traffic Act in one of the minor manners was dealt with in this fashion as opposed to shoving him into the adversary system of the courts. But that requires a change in thinking at the present time as to how you dispose of that kind of default. There's really no reason why a man who commits a parking offence should invoke the adversary system of criminal justice to resolve it.

That's what's clogging the court. If you ever took that out of the court system, you would have a manageable workload.

[8:30]

If you look at the statistics of the provincial court in Toronto alone, there are over two million cases in court. I think of that two million, there are 1.8 million traffic and bylaw infractions that could probably be dealt with in a much more expeditious manner.

Mr. Roy: That's a very interesting point, because I agree with you on the hordes of people who are ending up in court over these violations. It's a provincial jurisdiction thing. What's stopping you from sort of changing the system so as not to bring them into the courts?

Mr. Callaghan: I think it's a very fundamental policy decision that has to be made eventually by government as to whether or not they're prepared to treat non mens rea criminal offences as really offences which should be dealt with in a regulatory manner with proof of fact and nothing else before a tribunal, together with some form of enforcement that is effective.

Our whole concept today is that if you park your car on Queen's Park Crescent in contravention of the traffic bylaw you have a right to the full scale of the criminal justice system, with a trial if you want it and all the paper involved. Statistics show that 98 per cent of the people don't even bother. They pay the fine. But the two per cent certainly plug the system with their paper. The question is how you deal with that.

Our default-fine driver licence programme has proved the real deterrent in those situations is the driving privilege. If you remove a person's driving privilege, he's much more concerned with that, and what we've been trying to do with that system is when your licence comes up for renewal we try to get to you. But we haven't convinced MTC that we should do it through their computer yet. So we have a very dedicated staff of people who get no credit and deserve all sorts of credit, get low pay, and deserve 10 times what they get, working day and night with pencils and eyeshades.

Mr. Renwick: If you have a number of the good burghers of Metropolitan Toronto spend a night in the Don Jail, we're likely to get very improved facilities very quickly.

Mr. Vice-Chairman: Any further questions on any item under this vote?

Mr. Lawlor: I just have some comments on this. Manual systems sometimes, curiously enough, from what we learned in the automobile committee, may work as well as or better than computerized. The amount of money involved, actually returned, was \$3.5 million. Is that correct? The total suspension money was \$5.6 million?

Mr. Callaghan: Five million, yes. There's \$2 million outstanding, approximately.

Mr. Lawlor: Two million outstanding.

Mr. Callaghan: That's not a bad return ratio.

Mr. Lawlor: Oh, that's terrific. I would think you'd give it all to Legal Aid.

Mr. Vice-Chairman: Mr. Renwick.

Mr. Renwick: The last matter on the first vote that I want to raise deserves about four minutes of this committee's time and I promise to take only one minute of it. As I understand it, the Ministry of the Attorney General has before it the report of the special committee of the Benchers of the Law Society of Upper Canada which was adopted by a convocation on Friday, June 25, with respect to the appointment of Queen's Counsel. After a very learned discussion of the origin and history, a number of appointments made, they urge the development of a particular system, and it ends up, "We consider that the treasurer and such benchers as he shall see fit to appoint seek a meeting with the Attorney General of Ontario first, and of Canada later, and urge upon him the development of a system such as this" and then they itemize

what the system should be. Has that meeting taken place, or is it likely to take place, and what are the views of the Attorney General, in 60 seconds, on the appointment of QCs in the Province of Ontario?

Mr. Vice-Chairman: I want to point out that Mr. Renwick actually stuck to the minute. That's a first.

Hon. Mr. McMurtry: I've discussed it with the treasurer, I've discussed the report with him. So far as the policy is concerned, of course, it's a decision of cabinet as a whole. I have to say that one of my concerns in relations to the Law Society report, which I thought was a very thoughtful and fair document generally speaking, is that I see a danger—and I don't know whether one should worry about this overly—that you sort of create two classes of appointees, as it were; one class of person, which I gather numbers somewhere in the neighbourhood of 2,500 people or more, who were appointed under the old system, and the new appointees, who would be appointed under a somewhat more stringent system, I am concerned, quite frankly, as to the extent to which this might prejudice or discriminate against the younger lawyers who wish to qualify and that, quite frankly, is a worrisome matter so far as I am concerned. No decision has been made by the executive council. I'd be happy to hear your views.

Mr. Renwick: I think the solution is probably the solution that took place when I was practising law in the province and that was that one should wait until the transfer of the Crown from the Queen to presumably a King and the new system could be instituted at that time and they would become King's Counsel and the ones who were appointed under the Queen could remain as Queen's Counsel and that would be a legitimate status-dividing distinction, because that's the system that I recall—I hate to say this—so long ago, that there were persons practising law in Toronto whose QCs came during the time of the reign of Queen Victoria. It was a distinct honour and a status to have a QC rather than a KC. Perhaps the system could be instituted at that time. I wish, of course, Her Majesty the longest life possible, but perhaps you could give consideration to that distinction as being a way to solve the problem.

Mr. Roy: Mr. Chairman, as one of a number of lawyers who haven't yet aspired to that title of QC, I think the younger lawyers would be more—how should I say it?—prone to accept a new approach to naming QCs if

you would promise to take away all the QCs from the people who didn't deserve them in the first place. I think we would be less likely to have a revolt within the ranks of the younger lawyers at the bar. I only speak for myself—

Interjections.

Mr. Lawlor: I agree. Why not be a wild-eyed revolutionary, a Mao Tse-tung type of radical, and wipe the whole damn thing out and start all over again? I remember Frank Hughes, former Justice of the Supreme Court, refused to use it; he wouldn't put it on his letterhead and he wouldn't permit anybody to address him that way.

Hon. Mr. McMurtry: He was content with the "Honourable."

Mr. Renwick: Perhaps we could have the additional status of having a QC but not using it. I agree with my colleague. I think you should deal with it and get it back on some reasonable system of actual merit involved for those who practise before the Bar.

Hon. Mr. McMurtry: As I recall the report of the Law Society, they weren't prepared to make the recommendation that it be restricted to people who practise—

Mr. Renwick: No, they weren't.

Mr. Vice-Chairman: Gentlemen, we are dealing with vote 1201. Are there any further matters to be discussed under these items?

Mr. Roy: I wanted to raise one thing on policy development.

Mr. Vice-Chairman: Well, we're through with item 1—we are allowing great gobs of latitude; I hope to get it out of everybody's system. Item 2, the Deputy Attorney General, any comments there?

Mr. Lawlor: The staff remains the same. Just one thing having to do with the office, Mr. Chairman, nothing to do with the person who occupies it. The only thing to watch with the deputy, who has a certain benign, I suppose, impatience—

Interjections.

Mr. Lawlor: That is all I have to say about the deputy.

Mr. Vice-Chairman: I'm afraid to ask. Are there any further comments on this item?

Mr. Renwick: There is one matter I want to raise with the Attorney General. I am somewhat concerned without any specific

matters in mind—I have them in mind but I am not focusing on specific matters—as to whether or not the agreements which the government of Ontario enters into and which are significant are approved by or through the Deputy Attorney General's office or whether or not the various ministries rely entirely upon their own legal staffs for the quality of the agreements entered into?

Mr. Callaghan: I guess, if you are referring to the present agreement under discussion in the House now, the agreements referred to me are primarily in the area of bond issues, things of that sort—Hydro loans and Treasury bonds. We are consulted from time to time on an ad hoc basis in reference to other agreements but not necessarily always.

One of the difficulties we face in providing legal service to the government is that each ministry operates under its own terms and conditions. In some ministries the legal officers are consulted and participate in the negotiations with reference to agreements and in other ministries they are not and do not. We can issue directives and tell them how to do it and what to do and insist they do it but we certainly have no control over them in all cases. There are traditional agreements which come into my office in relation to constitution matters and in relation to borrowing for the government but those are the only traditional agreements that come into the office on a continuing basis.

Mr. Renwick: I am not going to press a matter which is obviously entrenched in the way in which the government carries on its business. I think the deputy will certainly remember that Elmer Sopha from Sudbury, when he sat, and Vernon Singer have continuously thought that all persons, who are lawyers, performing legal functions in all of the ministries should be on the staff of the Ministry of the Attorney General and seconded to the particular departments so that there would be some uniformity, not in questions relating to the substance of the agreements people enter into but with respect to the standards of competence which are required in clarifying and stating clearly in agreements entered into by the government what is intended by the government.

Mr. Callaghan: In that regard, Mr. Renwick, all lawyers in the other ministries are on our staff and they are seconded but there's a difference between the fact that they are on our staff and seconded and the use to which they are put in the ministries. We certainly have our views as to where they should

be involved, at what level in the ministry they should be involved and what role they should play in the ministries but some of the ministers and other deputy ministers don't agree with that. It's like serving a client in private practice; you can lead a horse to water but you can't make it drink. This prevails, to a certain extent, in the common legal services which is developing. It's improving, I think.

It's a question, really, of using lawyers. Often people don't know how to use a lawyer. As a ministry gains confidence in its legal staff and realizes what the legal staff can do for it, it will then involve the legal staff in policy and in negotiations, at which point in time our views as to what contract should be entered into and what terms should be in a contract are realized. In some ministries—and a lot depends on personnel and personalities, too—they have not reached the stage where the ministry is involved to that extent in policy and development of contracts and things of that sort.

This is the area that John Hilton supervises and works on very hard. It is one of the areas we are developing but it was one of the areas, too, I think it is fair to say, which met with great resistance. One of the problems we ran into in 1973 when we started this was that many ministers—I won't say ministers but ministries—had the view that their lawyer was their man and that he was there to do their bidding. This is a view that's held often in corporations with reference to in-house counsel, things of that sort. We've made a definite effort to break that down.

[8:45]

Our concept is that the lawyer in the ministry is there as an independent professional to give independent advice. He's not there to do the bidding. It takes time to break down these entrenched views. Over the past three years, I think we've broken down this approach to a lawyer in many ministries and in those ministries you'll find the lawyers in the common legal services working at a very high level of competence and involved in the policy development of the ministry. In other ministries, we haven't reached that stage yet. The lawyers are not treated that way.

The net result, and it's almost a vicious circle, is that the good lawyers won't stay in that kind of ministry. They move out. It's very hard to get a good lawyer to go in; a lawyer who can provide the service. In some ministries, the lawyers who are providing the service are involved at a policy level and they're being made use of; but in other min-

istries they aren't. We're still working on it. Hopefully, we'll get it to that point.

Mr. Renwick: I think all I can do is urge you to work on it because there are very significant contracts continuously being entered into by the government which, without suggesting that any one lawyer has any more competence than another, leave something to be desired simply in the method of expression of the obligation of the parties which are involved in those contracts.

Mr. Callaghan: No question about it. Many ministries' contracts are drawn without legal advice but ministries operate in matters based on their own traditions and their own points of view and it takes time to break down those positions.

Mr. Vice-Chairman: Anything else in item 2?

Item 2 agreed to.

On item 3, policy development:

Mr. Lawlor: In policy development, just on figures to start with: Some of the figures here—I wonder by what token you can alter estimate figures and switch them around from one year to another. For instance, the 1974-75 estimates show this figure as \$207,000. Yet, in the previous book you gave us from the Attorney General's department, Notes of Estimates for the Fiscal Year 1974-75, that figure appears as \$842,300. Now that's the one figure. Then the other one is the \$918,000 which comes out at \$208,400 in actuality. In other words, the differential there with respect to services only is \$562,600.

Can you straighten me out on those two points? There's been juggling done with the figures.

Mr. Callaghan: What happened, Mr. Lawlor, was there an allocation initially in this division to provide for the development of a new—or to establish and fund a study of the appellate court, the Court of Appeal, and a study on the rules of practice. Those funds initially were put in at that point in time—two years ago—to start those projects. What happened in the course of the year was we ran out of money with reference to operating the court system.

Those programmes had not got off the ground at that point in time. They didn't get off the ground until this year. The funds were in policy development because we were just sort of laying out the terms of reference for those studies but they weren't going to be expended. We ran out of funds in the court

system, which we do every year, so we transferred the \$500,000 odd—I think it was—how much was it that first year?

Mr. Lawlor: It was \$565,000.

Mr. Callaghan: Five hundred thousand and some—we transferred the money from this division to the court system to be used in that system to reach the end of the fiscal year.

Mr. Lawlor: Into 1206?

Mr. Callaghan: Vote 1206—it would have gone in there.

Mr. Lawlor: I see. Okay.

Mr. Callaghan: This year, we've started these programmes. If you recall, the minister appointed Williston to establish or undertake a complete rewrite of the rules of practice. At the same time there was a commission established, headed by Mr. Justice Arthur Kelly, to review the jurisdiction of the Court of Appeal. Those are now being funded but not from this vote as I understand it. They are now being funded out of the vote for courts administration; that's where the funds go.

That explains the discrepancy. Two years ago Management Board gave ministries the authority to transfer funds from one vote to another, with their approval, when it became apparent that you had to select what you would do with how much money was available.

Mr. McLoughlin is the general manager.

Mr. McLoughlin: In 1974 and 1975, at the time of the reorganization of the policy development division, contained in there were the estimates for the MIS system and for systems development. Later, systems development came into the administration division; the MIS system went into the courts division and those amounts, the appropriation for those, were transferred.

You really have two situations. In 1974-75 you have transfer of two branches from policy development; and in 1975-76, we have the utilization of funds that were put under constraint for projects which were actually used in the court operation or transferred to court operation.

Mr. Lawlor: Bear with me—the MIS, the management information system, went where?

Mr. McLoughlin: It went to courts administration.

Mr. Callaghan: Vote 1206.

Mr. Lawlor: Courts administration, vote 1206. And the other one?

Mr. McLoughlin: Systems development went to vote 1202. And Central West went also.

Mr. Lawlor: Central West went where?

Mr. McLoughlin: Courts administration, I should say. I can get the figures.

Mr. Lawlor: Yes, I would like to have those figures.

Mr. Callaghan: I think, Mr. Lawlor, what we ought to do is enlarge the policy development division under Mr. Campbell, and formerly under Mr. Pollock. They develop the programmes and set up the initial requirements for the programme, including funding. We try to get the programme off the ground and then put it in the most appropriate division of the ministry for continual operation. That happens—like the management information system, which developed in policy development, has now moved over to courts administration because it relates directly to the operation of the courts.

Systems development, on the other hand, started here then moved into the financial administration division.

Mr. Lawlor: The think tank—thinking away, somewhere around the Hudson Institute, I suppose; 20,000 fathoms deep—consists of what? An assistant deputy, three legal officers, four management services? First of all, what does it consist of?

Mr. Callaghan: The staff, Mr. Campbell is the head of it, consists of five legal officers, five secretaries and a librarian. They run our ministry library; they are the people who theoretically make great use of it so they have the responsibility for running it. We have the librarian in there; at this present time, they have approximately 13 staff.

Mr. Lawlor: This is basically a kind of research unit?

Mr. Callaghan: That's right. For instance, if you take the family law programme, they have sort of directly worked with legislative counsel in preparing the legislation and the policy submissions on it. Mrs. Weiler is part of the policy development group; and Mr. Perkins. They are the people who have developed the family law reform programme over the last number of years. The landlord and tenant amendments—they work on those together with Consumer and Commercial Relations; things of this sort.

Mr. Lawlor: In other words, this group feeds into you—

Mr. Callaghan: That's right.

Mr. Lawlor: —in the first instance, new ideas, where statutory revision should take place, what is happening, I trust, in other jurisdictions. This is again, a kind of initiatory body.

Mr. Callaghan: That's right.

Mr. Lawlor: And the main thing they have been working on is family law?

Mr. Callaghan: Yes. It's a very small group, as you can see, and the family law programme has taken, I would say, 75 per cent to 80 per cent of their time in the past 12 months so we haven't had much opportunity. I guess the court reform programme, the preparation of the white paper, has taken the rest of our time.

Mr. Lawlor: They have also been studying summary convictions in that process.

Mr. Callaghan: That's right. We have a thorough study going on in summary convictions which, hopefully, we will be able to bring forward when it receives government approval.

Mr. Lawlor: Is it finished?

Mr. Callaghan: No, it is not completed. We have slowed it down because we have had to allocate the resources to the family law programme but I believe we will be in a position to make our final proposals on it by the end of this year.

Mr. Lawlor: Does this involve trial de novo procedures, too?

Mr. Callaghan: Yes.

Mr. Lawlor: Also I see reduced courts loads generally, but it goes on, "to relieve against the present procedures which involve imprisonment of an accused who is financially unable to pay a fine."

I am very interested in that area and would like to see statistics with respect to the number of individuals in the province of Ontario in the last fiscal year who have been in jail for failure to pay a fine. Have you got figures on that?

Mr. Callaghan: I am not sure if we have figures on that. You'll have to leave this with me. What we are trying to do is come up with alternatives for imprisonment. In traffic offences one of the alternatives, of course, is

licence suspension as opposed to imprisonment in default of payment of fine or licence suspension. When you get into other offences which don't involve some legal right which the government gives you, I guess, it becomes rather difficult to devise an alternative; if you don't own property you can't assess it against your taxes. There are things like that. These are all problems. Maybe Mr. Campbell could discuss that with you. We have run into a series of problems there; what we are trying to do is avoid the fine-jail alternative.

Mr. Lawlor: This is not diversion in its strict sense. This is once the penalty—

Hon. Mr. McMurtry: It is diverting out of the correctional system so that is—

Mr. Lawlor: Would Mr. Campbell care to—

Mr. Campbell: Yes, sir. In a sense it is a form of diversion under the federal Law Reform Commission definition of diversion, which is any programme or measure which stops or minimizes the penetration of an individual into the criminal justice system. The abolition of jail in default of payment of fine is a type of diversion and under that definition it would be classified as a post-dispositional type of diversion.

The difficulty in abolishing jail in default of payment of fine is that one must have some kind of effective alternative sanction. Without going there, we have got a lot of material in relation to the British Columbia system of taking the orders of quasi-criminal courts and filing them as civil judgements. The most recent figures which we have from British Columbia show a lack of effectiveness in that system. We have also examined the report of the New Zealand committee on fines enforcement which recommended—

Mr. Lawlor: May I stop you there? In setting up an execution for a criminal fine in the sheriff's office, I suppose there is no greater rate of default or non-payment than what actually happens under the civil suit. They have millions of executions sitting down there on University Avenue.

Mr. Campbell: Yes, sir, but they are generally, in a civil matter, in relation to a much larger sum of money than you find in the average warrant of committal. The average warrant of committal, I don't have the precise figures, would very likely run way under \$100 and the cost of taking an amount under \$50 or \$60 and filing it as a civil execution, having execution levied against goods and chattels, tracking the person down,

is really infinitely more expensive than can be warranted.

I know in Nova Scotia, when they went to a new system of executions, they had a problem of overloading. Our examination, on the basis of reports from British Columbia, shows that they are having trouble with their civil execution system. This system simply is not effective. You have a very small proportion of people, but a significant proportion, who, if there is no effective sanction, will simply ignore the process of the court. It's the approach of the federal Law Reform Commission, the New Zealand committee and most of the bodies whose reports we have studied that, for that tiny proportion of what the Americans call "scoff-laws," you have to have some kind of effective machinery that will, in the last analysis, preserve the integrity of the order of the court.

[9:00]

Mr. Lawlor: You've been pretty busy people. I see a list of texts—The Municipal Amendment Act, The Lord's Day Act and a whole host of others. What did you do—you did a review of the Osler report on Legal Aid. Is it finished?

Mr. Campbell: We have done a number of reviews of specific aspects of the Osler report. We have divided it into three main areas. The first major area is control; the second major area is coverage; the third major area is the delivery system.

We've analysed the briefs delivered to the Osler committee and considered by it. We've analysed the report. The difficulty at the moment, in relation to the Osler committee report—the Osler task force report—is that that report gave really very little attention, relatively speaking, to the financial issues. It did not really address itself to the question of having what they call an open-ended programme in a time of financial constraint.

Obviously, one of the most cost-effective methods of delivering legal services, for some types of work, is the clinical delivery system. There are several models of clinical delivery systems. The two studied mainly by Osler were the Hamilton-type clinic with rotating duty counsel and the Parkdale type clinic which is more of a community-based type of clinic, although Parkdale would be less community-based than an organization like Neighbourhood Legal Services in the Riverdale area. You have two or three types of clinical delivery system.

Partly as a result of the study of Osler, the Law Society was asked by the Attorney

General to develop and bring forward a regulation that would permit—this would be for the first time in Ontario—the funding by the Legal Aid plan of independent community-based clinical delivery systems. A great deal of the work of the division, or my work in particular, has been working on the development of that regulation and the application of that regulation through a committee comprised of one member from the ministry—that is me—and two appointees of the Legal Aid Committee of the Law Society of Upper Canada.

Funds have been expended to approximately ten clinics, most of them in the Toronto area but one of the clinics is at Western in London and one of the clinics is in Windsor, although it is based mainly in Toronto. It was hoped that by developing this regulation and by preserving these clinics, many of which were about to go belly-up from the withdrawal of federal funds, we could develop the—

Mr. Lawlor: They used to go over and see Roy McMurtry once a day.

Mr. Campbell:—base from which the application of a clinical system could be studied. Obviously, there are some kinds of legal services in relation to which the clinical system itself, in the classic sense, is perhaps not as appropriate as others. The classical areas for the clinical system are landlord and tenant matters; some types of family matters, although perhaps not all; and social advocacy matters, almost, like unemployment insurance, welfare, family benefits—somebody's been cut off their GAINS—Workmen's Compensation, something where an individual is, by law, entitled to a statutory benefit and, by reason of the workings of the bureaucratic machinery of some kind, has been refused it. That is the prime area right now that our looking into Osler seems to indicate.

Mr. Lawlor: Did you try to cost the full implementation of the Osler report?

Mr. Campbell: It would be impossible, sir, and I think that is recognized. I don't have the passage but I think it really is, at least implicitly, recognized in the task force report itself. There is no way of determining what Mr. Justice Osler referred to as the unmet need in civil matters. We can tell from the amount of pressure on the clinical funding committee for funds, and this is only groups who are self-starting groups that have developed very largely through independent community movements. There would obviously be a very large demand for legal serv-

ices of that nature and it's just impossible to cost it out because you don't know how great the need would be.

One other problem, of course, in developing any clinical system immediately is that in terms of starting up you need to develop a base of experience. You need to attract a certain type of lawyer to that clinic. You need to attract a certain type of paraprofessional. The whole area of paraprofessional training in the legal area is in a very piecemeal state. One of the prime benefits of the clinics is that they make intelligent use of paraprofessionals, thus cutting down on the cost of the service and in some instances perhaps doing a better job than a lawyer could.

Mr. Lawlor: Thank you very much, Mr. Campbell.

Mr. Roy: I'd like to pursue one of the things you were talking about earlier with Mr. Lawlor, about the question of enforcement of fines and all of this. I think it was just this summer again there was a report by Mr. Linden on the question of fines and restitution and this type of thing. I talked about that before and I just wonder, Mr. Campbell, whether we're making sufficient use of the restitution provisions of the Criminal Code within our criminal justice system. What I'm saying is, I've always felt that there are a number of individuals working within the system who are sometimes forgotten—the witness, sometimes the juror—I cite as evidence of this the way we treat him and the way we pay him—and finally the victim himself, or herself, who is involved within the system. When we are talking about sending people to jail, or as an alternative to jails I think you could always keep that as the deterrent; the alternative being jail if you don't make restitution. The offender may repay money or replace property, or pay for damages to the victim on the condition that the sentence be reduced. I'll need your help on this, but I think there are provisions now in the Code, under the probation sections of the Code, where it could be done more often, but we often don't do it. Is it your opinion that we require additional amendments to the Criminal Code to allow a more effective use of this?

Mr. Campbell: The Attorney General, on September 22, sent a memorandum to all Crown attorneys with respect to vandalism, particularly inviting their attention to the provisions of section 653 of the Criminal Code which is one of the provisions to which you are referring. He said that the provisions

of 653 in appropriate cases should be brought to the attention of the court and there was a case called *Gorunuk*, a 1963 judgement which referred to the notification of the complainant, notifying the complainant, and in effect making sure the complainant has been notified so that he would be in a position to satisfy the court as to the extent and detail of his loss and that specific provision was brought to the attention of the Crown attorneys in the form of a direction by the Attorney General.

This is sort of the damage compensation section. There is also in effect a restitution provision, I think it's really restitution in specie, in relation to goods that have not been traced, into the form of other goods. But there's a real problem with the probation section and there's a real problem with the use of the probation sections in terms of the number of ways they have been interpreted by the courts to use restitution in connection with probation. One of these problems flows from issues that have arisen in some of the pilot diversion projects in the province, and that is, when a person is making restitution they are usually making restitution to an identifiable victim and if the accused stops making a restitution, there has to be some way in reinitiating the process to bring them back to court for breach of probation or some other form of sanction against them for failing to continue to make restitution. As soon as you get into that area, you are getting very close to the area described in a line of cases referred to in the judgement of Mr. Justice Jessup in the Court of Appeal in *Osborn* and that is the only clear line of cases in the Court of Appeal which referred to the use of the criminal courts as a method of enforcing or collecting a civil debt. As soon as you get into the issue of restitution and compensation, it's obviously an area where the law could become very creative, but at the same time the law must strive very carefully to retain the traditional values, one of which is that the court is there for an injury against the state and not there as a collection agency for a victim of what's really a tort. Those are the balancing interests in examining various pilot diversion and restitution projects. We are trying to keep an eye on them to see how those competing interests can be accommodated, but it is a question of adjustment in relation to each restitution programme as to how you balance those interests.

Mr. Roy: I appreciate that, but I just wonder how the court could consider that you were using a criminal process to collect a

civil remedy or civil judgement when in fact the restitution was part of the fine which was the result of a criminal charge. I realize that there are problems. You recall, for instance, automobile agencies which are renting motor vehicles and someone takes off with the car and doesn't bring it back. They come in and complain to the police, to the Crown, that charges should be laid for theft at that point and I can go on. There are all sorts of examples like that. Certain companies or individuals want to use the criminal process for civil remedy, but in this case I really think this is something different. I wonder whether you feel that possibly the Code should be amended to cover that sort of thing, because too often the victims feel time after time that they are forgotten in that process, and a large percentage of cases, I don't have to tell you, involve property, damage of property, theft, in fact I guess assaults could have a form of restitution. What I am saying is that many times a victim has to run to the Criminal Injuries Compensation Board for some form of restitution. I would even go that far, to say to the accused that there must be some form of restitution to the victim even in lines of assault and things of that nature.

Mr. Callaghan: You get into some pretty nice constitutional phantoms when you get into that area as to how far the Criminal Code can go to compensate a victim of a crime. I think that's why the provinces have developed their own victims-of-crime legislation with their compensation boards, because of the constitutional issues you get into when the federal authorities pursuant to the criminal law powers start developing civil remedies. You can see it coming up now in their competition legislation. The competition legislation is developed pursuant to criminal law powers and when they start giving triple damages and causes of action there are real issues come up there. It gets pretty dicey.

Mr. Roy: I appreciate that there are all sorts of problems with that, but isn't it ironic, for instance, that the Criminal Code seems to allow more satisfaction toward a victim in the area of property than it does for damage to the persons themselves?

Mr. Callaghan: They allow the restitution, Mr. Roy, in the area where if he steals your car and your car is there and it is an exhibit at the trial, then they permit you to take it back. That's one thing. But if he steals your car and it is destroyed and they try to give you compensation at his expense for the value of the car, you start crossing grey lines

in the property civil rights and the provincial jurisdiction. This is the problem you run into when you start supplementing criminal sanctions with civil remedies, and the real answer to that, of course, would be to develop a system of justice where our civil system of law could answer as quickly to an injury as does the criminal system. We try and hang people—we used to hang them; we don't any more, we imprison them for life on one piece of paper, the indictment but then you know what the rules of practice are like —to determine whether or not a claim for \$1,000 would be realized.

[9:15]

Mr. Roy: There's an awful duplication of actions. You may succeed in the criminal courts and you've got to turn around and either take a civil remedy in the civil courts or go before the Criminal Injuries Compensation Board, and it is an awful duplication along the way. Without getting in this dicey area, I am glad to hear about this memo because I think that is a positive step in having our provincial court judges especially—they are the ones dealing with the bulk of these cases—think along that line. What sort of cases are you restricting that to?

Mr. Campbell: Under section 653, compensation for loss or damage to property suffered by the applicant as a result of the commission of the offence.

Hon. Mr. McMurtry: I am particularly concerned about the apparently increasing incidence of vandalism, I had a number of communities contact me in relation to this growing problem and there was a suggestion that the courts weren't treating the matter seriously enough, and as a result of this communication I caused this memorandum to be circulated.

Mr. Campbell: That jurisdiction is similar to but distinct from the jurisdiction in 663(2)(e) in relation to a probation order, which could refer to the personal injury situation.

Mr. Roy: Mr. Chairman, I would like to raise another matter here at the same time as thanking whoever is responsible for coffee. It's very gracious whoever that is.

Mr. Vice-Chairman: I think it's a donation from Reed Paper.

Mr. Roy: Reed Paper?

Mr. Vice-Chairman: I'm not sure.

Mr. Roy: If they think they can buy me with a cup of coffee, let them try.

Hon. Mr. McMurtry: It's courtesy of the Ministry of the Attorney General—I should say the minister personally.

Mr. Roy: I was wondering if one of the things that you are considering in your policy area, in the legal profession itself, whether there is any consideration, or whether that's part of the scope that you are looking at, of the specialization of lawyers, or whether you leave that up to the Law Society of Upper Canada to determine that sort of thing.

Hon. Mr. McMurtry: I think it has to be left up to the Law Society, which still is the governing body of the profession.

Mr. Roy: Not long ago I think Mr. Justice Estey suggested that he feels, with the growing number of lawyers and the complexity of the law taking place, that certainly there should be a consideration given to the specialization within our law schools. As my colleagues are aware, this is happening more and more in practice anyway. Most lawyers are restricting their practice to a relatively limited field and I think it's a good idea to move in that direction.

Hon. Mr. McMurtry: Yes, I should say at the time we referred a number of professional statutes to the Ontario Law Reform Commission, on April 6 of 1976, I asked the Ontario Law Reform Commission to do some independent research with respect to advising the government or making recommendations to the government for comprehensive legislation setting the legal framework within which certain professions are to operate and particular questions were referred to the commission relating to The Architects Act, The Law Society Act, Notaries Act, Professional Engineers Act, The Public Accountancy Act. I do note that in relation to The Law Society Act we did request that as one of the questions; the possible creation of new professional groups and sub-groups or the amalgamation of groups within these professions. One of the aspects that we are talking about, of course, is the para-legal aspect of it but we have also invited their comments with respect to what could be considered to be a specialization within the profession itself, although I personally have the view that this is a matter that should largely be determined by the Law Society itself as long as it is given the responsibility for maintaining the standards of professional competence.

Mr. Roy: We can all be sure that the Law Society will not move too quickly in that.

It's never had the reputation of moving with any irresponsibility or undue haste in any—

Mr. Lawlor: You can use your card.

Mr. Roy: My card? You mean advertise?

Mr. Lawlor: No, you take your little card out and you say you're a specialist, but you can't use that on your letterhead.

Mr. Roy: Yes. There is one further matter I'd like to discuss with you in the policy area. I'm just wondering: Does this policy group consider changes under the Criminal Code and feed these to the Attorney General so that he can make representation to the federal Attorney General who has jurisdiction over the Code? Do you do that sort of thing?

Mr. Campbell: Indirectly. That would be done by the criminal side of the department. We would work with them as requested on areas of that nature. The uniformity conference is usually attended by one of the senior law officers on the criminal side and that's been the traditional vehicle for specific amendments to the Code to be requested by the province. However, as issues do come up from time to time, the Attorney General, or the deputy works with the senior law officers on the criminal side. We assist them as requested.

Mr. Roy: I can say it always seems to me—and I might be saying this out of ignorance—that the Attorneys General of the provinces, considering that they have the whole administration of justice to take care of after it's enacted at the federal level, certainly should have some major input into any changes in the Criminal Code. It always struck me as though there wasn't enough input in that direction.

Hon. Mr. McMurtry: I don't want to interrupt you, Mr. Roy, but it's been my experience, having a year's experience in dealing with our friends in Ottawa, that they certainly receive our communications and we don't hesitate to let them know or give them input with respect to what we think in relationship to certain proposed amendments to the Criminal Code which they are considering or additional amendments.

My own experience has been that they're not all that helpful at times. They seem to guard rather jealously their own prerogatives in that respect and although they listen politely, one never knows what they're going to do until their own legislation is intro-

duced, although they do from time to time talk about possible legislation in very general terms.

Certainly it's been my experience that we're very active in making suggestions to them but it's not a process in which you sit down around a table and arrive at any sort of consensus. They politely acknowledge your suggestions but kind of like to keep a lot of their legislation under wraps—which I suppose I can understand to some extent—until it's actually introduced to the federal Parliament.

Mr. Roy: I really think that's unfortunate because, considering that really it's the provinces which have the responsibility of carrying through these things, I would think that the least they could do is show you draft legislation or working papers or stuff like this before they bring forward any sort of major amendments. The reason I'm suggesting this is, as you know, the Criminal Lawyers Association apparently got hold of a working paper about certain reductions in the rights of the accused. They claim they are not reductions in the rights of the accused but they talked of jury trials, the use of preliminary hearings and even considered the right of the accused to remain silent. These are all major things which affect what we're talking about, the process in the courts. I would have thought that they'd have kept the Attorneys General of the provinces informed of this.

I read with interest the reaction of the Criminal Lawyers Association about this because frankly, apart from the right to remain silent, the other matters referred to in the working paper I didn't get quite that excited about it. The point is that with the reduction of the jury trial, they took away more jury trials when they amended the Code for property charges and possession from \$50 to \$200, I suppose, than in any other case. When was that? Did they do this in 1972, increase the value in theft cases from \$50 to \$200?

They took away more rights to jury trials by that one swooping upgrading than any other major amendment yet there seemed to be no real hue and cry about it. I really think that, for instance, the preliminary hearing process has to be looked at because really what defence counsels are using it for is disclosure rather than the intended purpose of determining whether there is sufficient evidence to send the accused on to trial. I'm not saying they are abusing it—sometimes in the whole process, in the maze of cases, the only way

they can get full disclosure of the case is through a full preliminary inquiry. These are all things that I look at, at least, as matters which should be given serious consideration, and to avoid duplication.

I was pleased to see that finally we don't have to go through the grand jury system any more which was, in my opinion, another duplication. These are all things that I would think the provincial Attorneys General, because they have to supply the bodies—the judges, the courtrooms and everything else to go through that sort of process—should have major input in.

Hon. Mr. McMurtry: I think a lot depends on the federal Minister of Justice concerned. I'm reflecting and it seems to me that the amendments to The Bail Reform Act which came out within the last year, I guess, certainly reflected some considerable input from Ontario. I suppose a lot depends on the sensitivity of the issues.

I must say that I have found my dealings with the present federal Minister of Justice to be very cordial and carried on in a spirit of co-operation. He has been very receptive to proposals, generally speaking, whereas I gather his predecessor, quite frankly, from what I hear from discussions with other Attorneys General about the country, was somewhat less receptive and created a certain atmosphere of antagonism at least among the Attorneys General.

That was the same fellow, you will recall, who was given the responsibility by the Prime Minister to settle the sensitive issue of bilingualism in the air. After he made enemies of all the other provincial Attorneys General they moved him on to greater things. Personalities undoubtedly play a very large part. Certainly Mr. Basford has always been very co-operative and I gather, from discussion with my senior staff, particularly the Deputy Attorney General, that there's some pretty continuous communication between him and Mr. Callaghan and people like Don Corson in Ottawa.

Mr. Callaghan: I think one of the things that has developed—if I could just interject for a moment—was in 1973, when the Attorney General, Dalton Bales, felt that there was no communication between the Attorneys General of the country and that's true—there wasn't. There was the odd federal-provincial meeting when it was called by the federal Attorney General in Ottawa.

Mr. Bales commissioned me, so to speak, to visit every Attorney General's ministry in the country to ascertain whether or not the provinces would have a definite interest in

considering changes and matters of common concern. I think Mr. Welch, who succeeded Mr. Bales, convened a meeting rather successfully here in Toronto in May, 1974, which was the first time since Confederation that provincial Attorneys General had met. As a result of that meeting the provincial Attorneys General have been meeting at least twice a year, discussing matters of common interest and discussing matters of common interest with the federal government. When they line up a sufficient number of matters to discuss with the federal Minister of Justice, they ask for a meeting. We've had at least three of those meetings since 1975 at which certain issues have been discussed at length by the Attorneys General.

[9:30]

They've involved matters of prosecutorial responsibility; jurisdiction of the federal court; wiretap provisions; bail provisions of the Criminal Code. I think there has generally been in the past three years a much greater interrelationship and communication between the provincial Attorneys General and the federal Attorney General. I think there has been an effort in the last few years to improve certainly what was very seriously lacking prior to that.

Hon. Mr. McMurtry: I've attended three meetings in the past year with my provincial counterparts, and two of those meetings involved the federal level—the Attorney General, the Minister of Justice.

Mr. Renwick: I wonder if Mr. Campbell would be good enough to tell us what's on the docket for the next year and what sort of priorities there are in the policy field?

Mr. Campbell: Basically, it's whatever the minister gives us to do. Obviously, there'll be further developments in relation to family law reform as referred to by the Attorney General in his statement in the House on Tuesday. There are a great number of issues to which he referred relating to the law on children. It's legally a very complex yet very important and sensitive area of the law.

We've already started to do a good deal of background work in that area and we hope to be coming forward to the minister with various aspects of the research and development we've done in those areas. It will probably continue to absorb a great deal of time. I hope that as family law progresses we should be able to devote more attention to The Summary Convictions Act amendment; there are other areas that we're working on. There are a number of reports of the Ontario Law Reform Commission in respect of which very

little or no action or only partial action has been taken. We have a lot of those on our plate.

One very long outstanding project which we have not had the resources to complete is the proposals of the Ontario Law Reform Commission with respect to the limitation of actions. That is, from a technical point of view, a massive piece of work, even to translate that into legislative form. A great deal of work has been done on that but it's been put, not exactly on the shelf, but down in priority in our concentration of effort in relation to family law reform.

We continue to work on Legal Aid. Landlord and tenant is an area, obviously, where we will be continuing more work. As federal proposals come back in respect of young people in conflict with the law or the youth justice Act or whatever we'll end up calling it, that will obviously call for a good deal more work.

There are a number of proposals of the federal Law Reform Commission in relation to subjects such as diversion, restitution and compensation to which we've been trying to give some attention and trying to monitor various pilot projects and work in developmental areas there. We haven't been able to give them that much attention during the concentration on family law but that, together with Legal Aid, plus whatever else is given to us by the minister, I expect will form the basis of our next year's work.

Mr. Renwick: Mr. Chairman, I have one comment and I'm not asking for any particular discussion about it. A matter which, as a member of the assembly, bothers me and has bothered me for years is this casual way in which we pass statute after statute, and tucked away at the end is a penalty provision setting out fines of one kind or another. Nobody has any criteria on the basis of which the judgements are made. Suddenly, you'll see a statute in which the fine is a minimum of \$50 and a maximum of \$500; the next one will be \$20; the next one will be \$10,000; and the next one will be \$1,000. We just gaily pass the substance of the statutes and have all this maze of fines imposed, many of which nobody knows about until the occasion arises and somebody happens to walk into a lawyer's office with a summons and you look it up to find out what the penalty is. I don't know whether it is an area which—well I just feel it is a very sloppy part of the legislative process. We have no way in which we judge whether it should or should not be; on the fine range which is levied. whether there is any relation to any other

range in any other statute, or any relationship to the gravity of the crime or the offence on which the punishment is meted. I think it is extremely haphazard. Except on very rare occasions there is very little comment in the House about a bill, unless someone thinks that in this case it's too low; or at some point it is raised and then maybe somebody says: "Well let's change it. We should make it a little bit more or a little less."

I don't know whether it's a real problem or it isn't a real problem. I don't know whether it lends itself to codification; I don't know whether it lends itself to a simple statute which prescribes the penalties for breaches of statutory provisions with different gradations in such a way that you eliminate from the particular statute all of the penalties and have a general guide, with some gradations of seriousness of offence to which you make reference. Maybe this present system is fine, maybe there are many more other important things to do, but when we are imposing penalties or the potential of penalties on the citizen of the province for a breach of some obscure provisions of a statutory requirement or breach of a regulation, I think maybe we are in great default in the way in which we go about our legislative responsibilities.

Mr. Campbell: Yes, sir; we did some preliminary research on that and it is indeed a major problem. We have collected material from every ministry which administers penal statutes in relation to the range of penalties. We have amassed a great deal of material which shows huge variations and a lack of—exactly what you say, a lack of consistency in terms of categorizing the seriousness of offences and developing clear guidelines and criteria as to what is the appropriate sanction or range of sanctions for any particular delict.

Part II of the Law Reform Commission report on the courts, some of the background material to it, mooted the question of two or three different basic ranges or categories of provincial offences. There are two or three different technical ways that what you are talking about can be done; one is by changing the simple "incorporation by reference" provisions in section 3 of the Summary Convictions Act; the other is by developing two or three different categories of offences and making them apply across the board, notwithstanding the provisions of any provincial statute. Another is by developing a set of general guidelines as to, for instance, when it's appropriate to consider imprisonment; when it's not appropriate to consider imprison-

ment; when it's appropriate to consider a civil sanction other than jail or fine, or jail in default of fine. That very topic is and will be absorbing us more in our review of the Summary Convictions Act.

Mr. Lawlor: Just to satisfy an academic interest? Do you monitor the Tulane Law Review? Do you know the work of H. L. A. Hart?

Mr. Campbell: No. What we try to do is to get hold of the abstracts. There is an abstracting service which abstracts the table of contents of every major legal periodical in North America. We try to get hold of that so we can tell at a glance what particular thing is coming up or if there is a useful article. Once we get that we will be able to do that very kind of monitoring. We try to keep abreast of recent developments. For instance we did some work on recent material put out by Radzinowicz on three or four different new approaches to criminology; we do our best to keep track. With this concentration on family law reform we have slipped a little behind in our general development, but we do try.

Mr. Lawlor: This is in respect of 1972. Would you be interested in an article by Professor Gluckman called Judicial Process Among the Barotse of Northern Rhodesia?

Mr. Campbell: We have that book from which you quoted in our library.

Mr. Lawlor: It has nothing to do with Ian Smith, by the way.

Hon. Mr. McMurtry: Well I'd just like to make a statement here, Mr. Chairman.

Mr. Vice-Chairman: Go to it.

Hon. Mr. McMurtry: This office commenced in 1972 and 1973. I believe they've made a tremendous contribution to the administration of justice in this province and I just find unacceptable Mr. Lawlor's statement, that this policy division hasn't really got going.

Mr. Lawlor: I just wanted to see how much they were doing, in what depth they were moving. This seemed enormously important to me; and if the policy division weren't working in that area they just weren't working at all.

Mr. Roy: Just one quick question before we leave this. I realize that Mr. Williston is looking over the rules of practice, which is something so obviously necessary I'm just sorry to see he's got three years to make

any recommendations. Have you got three years?

Hon. Mr. McMurtry: Three years, yes. I mean it's—let's face it, it's 1911 or 1912 since the last full revision.

Mr. Roy: That's what I have a hard time to accept that we wouldn't be looking at those rules since 1911.

Hon. Mr. McMurtry: I think we probably should have, but at least we're doing it. We're doing a big job and we have a gentleman whose qualifications are really without question in this area, as you know. Considering the amount of research that is necessary, the necessity of consulting the public, because again, as suggested by Mr. Lawlor in his opening statement, there is a certain clubbish atmosphere sometimes about the law and justice and we forget about the fact that we really are here to serve the public. But I think considering all of that, the time frame is not unreasonable as it relates to the job that is being done.

Mr. Roy: Well I just ask Mr. Campbell, while we're talking about this, is Williston looking at The Judicature Act as well? I just wonder, I hope we don't wait till he makes some recommendations in two or three years before we look at the question of interest. Is the interest still at five per cent? I thought it was five.

Mr. Callaghan: We've actually prepared a position on that which we've sent over to the rules committee to take a look at. We want to get their input on it and hopefully we would have a submission for the government's decision very shortly. So that they can consider whether they want to bring in the legislation to deal with it. That's certainly one of the problems that in fact as far as the Ministry of the Attorney General is concerned, we've dealt with at length; and on the minister's instructions we've given the rules committee a crack at it and the judges of the courts a crack at it.

Mr. Roy: Because it's a bit ridiculous. I think it was Mr. Moffatt was raising the question earlier of waiting for a judgement. In larger judgements when you are talking about sizeable sums of money, it's to the advantage of the defendant to wait up and stall this thing. He can have the money in the bank collecting interest at 10 or 12 per cent and when the judgement is assessed against him he only pays five per cent. I just think it's ridiculous and may well, in

fact, encourage certain defendants to stall action. In fact, I don't know why we set a rate, why we don't leave it within the discretion or at least some limit, some range for the trial judge to look at, because five per cent today is just ridiculous.

Mr. Lawlor: Yes. Get Household Finance to sue you, by any antagonism—stick out your tongue at them, defy them—because that's the only way you're going to get your interest down.

Item 3 agreed to.

On item 4, law research:

Mr. Vice-Chairman: Okay. Could we move on then? Ontario Law Reform Commission. Mr. Lawlor.

[9:45]

Mr. Lawlor: First of all, I want to mention the lecture by Leslie Scarman, judge of the High Court of Justice in Great Britain, a memorial lecture. That lecture, in 1967, gave enormous impetus to the British system. I am not going to read the whole thing, I am just going to refer to it, for posterity. Really, for the first time in dealing with these estimates, during the summer I took a look at the Law Reform Commission of Canada, and I trust the Attorney General and his staff—chaps like Mr. Campbell, who I know, from what we have just heard, are interested—do give cognizance to these things. I just want to comment for a moment on the diversity between the two kinds of Law Reports. On the one side, the kind that we use in Ontario, which is fine, highly formalistic; the underlying motivations of the law are hidden in the text; there is some kind of overall social judgement being made in the proposals and recommendations that are forthcoming. It's in the interstices of the discussions that have remained all at a very analytical and formal level, and so it generally tends to be as dry as dust for that very reason, however commendable what emerges out of it.

On the other hand, the Law Reform Commission of Canada has taken a completely different tack—and this is something of a discovery to me—and it insists that all its Law Reports be in common language. All the studies that are submitted, and they are quite voluminous now, all flow through. The language is simple, the man in the street can read it. They do this deliberately; there is no pretence. The law is brought down to earth and the thing is full of wit and wisdom. They work over issues.

Just to get a bit of the tenor of what we face, they say:

"We looked at the future because this is where we are going and because real law reform isn't putting out today's fires so much as trying to prevent tomorrow's. [This is the kind of language they use. They say the hardest part is to make a judgement or to evaluate the law.] Real evaluation, real judging, can be so difficult that all too often law reformers shy away from it. They just put forward various alternatives to the existing law and then express a preference for one of them without ever fully making out the case for it.

"They simply plump for one particular option. But plumping is for the birds. [Pure Patrick Hartt. They don't plump. They say:] Here we could have simply plumped for option 'X' or 'Y' and said that is our preference. Our job, we could have said, is to put forward our own values." But they said, no we can't do that. We have to go behind that and disinter what are the values of the society; where does consensus lie. That's the sociological tack; that's a deeper task than the surface thing of working the law.

The thing contains wit, as I say. It has comic relief. On page five it quotes from Hamlet and says: "There is nothing either good or bad but thinking makes it so." Push this to the ultimate and you get the cynicism of the politician who said: "These are my principles and if you don't like them, I have some others." That quality of wit runs throughout the whole article, and I wish there was a little more of that social purpose and kind of vision offered to the imagination—more at play in what the Ontario Law Reform Commission does.

Not to the extent that the door is opened wide. Because the federal body with all its vision and with all its seeking to get into the unconscious or subterranean or hidden motives that go into law-making, really delving in this particular regard, can get absolutely nothing passed into law. Because the dolts up on the hill there find that Hartt's approach is either esoteric or a little too much for them. On the other hand, pretty well everything our Law Reform Commission brings forward gets ruled into law. I think that's because of the remotenesses that exist in Ottawa over against the closeness that we have in all our working relationships with the provincial House, and the fact that we do rub shoulders with the chairman of that commission and enjoy his presence on occasion and come to know one another and there is more rapport. It is easier to talk to him. You can meet him

on the street and say, "Are you studying the tort law of unborn children and their rights?" He might say yes or no, or not interested. Whatever it is, you can pass the time of day. That is extremely valuable. At the same time, the other type of approach is really a pro-founder thing and in the last analysis Hartt's idea—he is finished now—his idea was that he did not expect a great deal to be done in the first five years, that he would simply set up a climate of opinion, set forward some kind of contour lines for the future and would hope that the legislators would come in to that state of mind, which they are in divorce law with respect to the no-fault principle operating there and elsewhere. It gave enormous impetus to reform legislation through this. There is no question that these Law Reform Commissions are about the most valuable and the finest invention in recent years in moving law ahead; otherwise, the tendency was to stultify, and they did for half a century until they came into being. Our Law Reform Commission deserves the highest credit.

Sometimes I think though that we should get some new blood in there and stir it up a bit. Leal has done a superb job and there is quite a bit of stuff still on his plate to do—I'll come to that in a few minutes—but I think it does all of us good every 10 years of our life to turn over and look elsewhere and give somebody else a chance.

With that in mind, I'm going to come back on a specific analysis—I think I've talked long enough in vagaries—and turn it over to the next speaker.

Mr. Renwick: Mr. Chairman, I would like to add a note to what my colleague has said. I think that the Law Reform Commission came into being in the province of Ontario where an immense amount of our body of statutory law required looking at. It was extremely archaic and the Law Reform Commission has come a long way from its first report. It referred to a major concern in the province about the state of the rule against perpetuities as being a matter of major concern. I think the conception of the Law Reform Commission was right and has been right up to now, but I do think that without changing its nature or composition drastically, the composition of the Law Reform Commission, as occasion requires, should be changed into some variation of a multi-disciplinary body with members of the commission from other disciplines, without giving away in any way the sense that it basically is involved in the remedial aspects of law reform. I think it would be extremely helpful

if, as and when occasion requires, either that the commission be enlarged or as vacancies occur on it that you give consideration to appointing persons from other disciplines to assist in the work of the commission, because I think we're moving into a qualitatively different role for the Law Reform Commission than it has performed up to now. I think it has done—as my colleague said—a very fine job considering the mass of statutory material that is sort of embedded in the past history of the province which needed to be taken out and looked at and refurbished and corrected.

Mr. Lawlor: The most recent report that I have is the ninth annual report, the 1975 report, which takes us up to March 31, 1976. First of all, it appears to me from what was said here tonight that a fair amount of stuff subsequent to this report was referred to the Law Reform Commission for future study as quickly as they can get to it. What are those matters?

Hon. Mr. McMurtry: The one that comes immediately to mind, is a very major undertaking that was referred to a few minutes ago with respect to the professional statutes. You will appreciate, having knowledge of the statutes, that this is a most monumental undertaking, particularly as there is a great deal of controversy related to some of the statutes; for example, the architects and engineers and their special jurisdictions—

An hon. member: Nothing to do with chartered accountants.

Hon. Mr. McMurtry: I think this is one of the major undertakings. I'm just trying to recall what else is in the mill. I think that's it for the major items.

Mr. Lawlor: They've pretty well run out of references, because they're self-generating and are advanced into a number of areas. They are beginning to work more in the contract field. On page 13 they say, under this head: "The commission may wish to turn its attention to the general law of contract and the formulation of legislation to amend the general law of contract."

I am in favour of codifying as much law as is humanly possible; getting contract law into a code; getting that unholy of unholies, tort law, into systematic form.

This business of having a plethora of law cases going in every which direction to meet the emotional need of whoever the lawyer happens to be representing whatever side, this case system can no longer flourish or exist in a complex society where the multitude of law, in all heads, continues to mount

and where a certain clarification can only be achieved through a systematization.

Why does a case in the civil court cost so much? Largely because of the research. Even if you are a highly paid lawyer in a particular field you're going to go to the books or send your students to the books. And it would be better if you are wise, as counsel, to read the main cases presented to you before you get to that courtroom. Cases are often 100 pages long; they're as long as a book, and half as interesting as Erle Stanley Gardner.

You are supposed to read a multitude of these things and latch them together, set up some kind of a systematic approach, present the case, and if you find the case going against you, learn how to distinguish it so your opponent would have to come over that tangle—it's a whole weird game.

[10:00]

The single instances which I spoke about in my opening address have always been there; it's only today, now that I'm getting sufficiently old not to care what I say, that these things begin to become very clear to me. In other words what I am saying is that the continental system of codification of law across the board means that you know where to go. Sure, under the particular heads, as the thing is set up there will be interpretations but that's what the Criminal Code is at the present time rather than the totally ramshackle English system of criminal justice, with any number of statutes and everybody going every which way. Their Law Reform Commission is working on it and will bring it into a code structure which we had the good sense to do a long time ago. But that is only one of the areas in which we had good sense.

We deliberately leave the whole of tort law and much contract law out of the Code because of the game; because the pertinacity and the brilliance of the lawyer are displayed in his ability to dig down to an ancient Australian precedent. He comes up with a fish gleaming for the judge—"The Supreme Court of Australia in 1843, just after they got the convicts off Botany Bay, said so-and-so." Mr. Justice Gale said "Yes, that justice himself was one of the leading convicts."

They are going into the general law of contracts and they are working on it. Another field in which they could do good work—it could go on for years—is the whole field of administrative law. McRuer has certainly done a good deal in that area with respect to rights within it but the formulation of law with respect to tribunals remains a great field in which they could work.

Hon. Mr. McMurtry: In other words, you don't subscribe to that expression, the "genius of the common law"?

Mr. Lawlor: No.

Hon. Mr. McMurtry: And you don't find the Code somewhat sterile in comparison? A man as literate as you are, Mr. Lawlor—

Mr. Lawlor: I don't want to talk about sterility.

Hon. Mr. McMurtry: I never thought of you as not devoted to the common law.

Mr. Lawlor: Peter Rickaby talks about the static; and the government static is more to the point than the sterile. I mean, if you are standing still, you may as well be sterile.

What I want to do is review with you for a few moments what remains to be done and why it is not being done. What about that insurance—I don't even know what it is about; I can't remember—which has to do with commutation? It was proposed on October 13, 1968, and apparently nothing has been done. It's on page 36 of their report.

Mr. Callaghan: That was referred to the Ministry of Consumer and Commercial Relations, on account of its insurance legislative responsibility.

Mr. Lawlor: Did they bring the insurance legislation through on it?

Mr. Callaghan: No, not to my knowledge.

Mr. Lawlor: Well, I'll speak to him.
Trade sale of new houses—

Mr. Callaghan: Same thing.

Mr. Lawlor: Limitation of actions—some of it has been brought in; some of the more gross features. You are still studying land registration or has that been switched over?

Mr. Callaghan: That is also in the Ministry of Consumer and Commercial Relations.

Mr. Lawlor: What about section 16? Oh, that's his, too, isn't it? That is Mr. Handleman's Mortgages Act.

Mr. Callaghan: This is one area where the Law Reform Commission does not explain in detail its reason for the report. With great respect to their judgement, we have reviewed the problem and we do not feel that the problem is as serious—

Mr. Lawlor: Is as they expressed it?

Mr. Callaghan: That is right.

Mr. Lawlor: Which is the same thing as it applies to the powers of attorney?

Mr. Callaghan: No. The powers of attorney is a separate problem. As you know, we have already given our proposal first reading two years ago. Subsequently, there were a number of—

Mr. Lawlor: Yes, I know that.

Mr. Callaghan:—objections to it.

Mr. Lawlor: That is one first reading which never got a second reading.

Mr. Callaghan: That was in 1973, I guess. What we discovered was that a number of provinces were experiencing similar difficulties so the proposals we had, together with our report, were referred to the uniformity commissioners. They had been examined by the uniformity commissioners in August of this year and they have directed that a draft uniform Powers of Attorney Act be prepared for consideration at the meeting in 1977 by a group of commissioners and so on. The powers of attorney problem is still with us. We are still working on it and we hope to get a uniform statute for the whole of Canada.

Mr. Lawlor: Okay.

Mr. Callaghan: That is something we are working on at this point in time.

Mr. Lawlor: Since 1972. January 11. Occupier's liability?

Mr. Callaghan: We have prepared draft legislation on that. On that, you will recall, we were faced with the decision of the Supreme Court of Canada in the Kerr-Addison case, which held that there was a new duty that transcended all other duties, it was the duty of "common humanity", which is another Supreme Court of Canada rhetorical discovery of the law, somewhat similar to the decision on the Anti-inflation Act, the second question. We felt that we—

Mr. Lawlor: Can you picture the Deputy Attorney General of Ontario saying that there ain't no duty of common humanity or at least it's rhetorical? Who gives a damn if it's rhetorical?

Mr. Callaghan: I'm not saying there was no duty. I'm saying it was never a duty which had been recognized before in common law and that before proceeding with our draft legislation we thought that since the categories now have been expanded, we had to review all our work, including our legislation, with a view to bringing forward a pro-

posal which incorporates this newly found and discovered duty, which, nobody questions, probably exists in some form or other.

Mr. Lawlor: Did you find that the duty of common humanity is so distasteful that you can't bring in legislation?

Mr. Callaghan: No it's just the newness of the degree that's the problem.

The new category is now well established. We could work out the appropriate legislative method which we could use until we come along with a new one. That's the genius of the common law. It argues well for your Napoleonic—

Mr. Renwick: All I can say is that you're lucky you weren't the Lord Chancellor for Charles I. You'd have lost your head at the same time.

Mr. Lawlor: I'm impartial—all right, let's go on. We've brought in legislation on The Solicitors Act, haven't we?

Mr. Callaghan: No, we haven't. The ministry made a pretty thorough examination of that and we hope will be able to bring it forward. The recommendations were not unanimously accepted but we have received replies from all kinds of Bar associations, including the Law Society of Upper Canada. We're hoping we'll have a policy position for consideration by cabinet within the next while. This is another area in which one of the members of my office is also in the course of working.

Mr. Lawlor: The report on motor vehicle insurance—Renwick and I were sitting in the committee—what of the international convention?

Mr. Callaghan: I believe—

Mr. Lawlor: Isn't that incorporated in the new Succession Duty Act and wills and things?

Mr. Callaghan: It's referred to in the new succession duty law format—or is described there. I'm not so sure I could say it implements all the recommendations of that report. To a certain extent it deals with the problem, and that bill will be brought back for further consideration in the next session.

Mr. Lawlor: I won't question you on the others, particularly the law of evidence. You did some work in that area—

Mr. Callaghan: That's posing a real problem because, as you know, the recommenda-

tions of the Ontario Law Reform Commission are in direct conflict with the recommendations of the federal Law Reform Commission. We've also been told that the federal government is prepared to proceed with an evidence statute at this forthcoming session of Parliament, and we feel we should wait and see what they're doing before we jump in with ours.

Mr. Lawlor: Thank you. I've no further questions.

Mr. Chairman: We'll move on to the last item on this vote.

Item 3 agreed to.

On item 4, royal commissions:

Mr. Renwick: There are two matters on royal commissions that I'd like to deal with. I'm not quite certain I know what my response is but I would like to use the two illustrations without reflecting in any way on the particular commissioners involved insofar as their work is concerned. I was quite concerned—I was quite surprised and then I began to be concerned—when I flicked on the television set on the night of the report of the Morand commission to see the commissioner being involved in a panel discussion on television about his report. I was also concerned to learn that on October 7 Judge Waisberg took part in a press conference with the Minister of Health (Mr. F. S. Miller) on the report on the Sudbury hospital.

I'm not saying that either of the commissioners spoke out of turn or anything. My concern somehow or other reflects this concern—that I take it that when a commissioner submits his report, he's finished. He's done his job and that's it. He no longer has any status as a commissioner.

If that is correct, then I think that commissioners, particularly commissioners who are involved in allegations in their reports about wrong-doing by citizens, should in that case refrain from either appearing in public or appearing to give weight by association, either with a minister of the Crown or by appearing on a television station, to any of the matters which they raised. I don't have the section in front of me but I think subsection 2 of section 5 of The Public Inquiries Act imposes special obligation on commissioners with respect to persons who might be adversely commented on in their reports.

I'm not talking about the merits or otherwise of the substance of the case but there did seem to me to be something quite new or novel in the situation. I think that in something which requires scrutiny in that

type of public inquiry, the commissioner should consider himself self-effacing from the moment he delivers his report.

Like all propositions, you can't make them general. I think if a commissioner chooses to present his report and simultaneously, with the presentation of his report, make a report which does not adversely criticize individual persons in relation to wrong-doing which may lead to criminal charges, that kind of thing, it may well be a different caution could go to the commissioner. The commissioner, for example, could do what Commissioner Ham did with his report which was a highly critical report but didn't fasten on particular individuals in terms of what could be called ultimate criminal liability.

I think in the case of the commission on the hospital in Sudbury, the mere appearance of Judge Waisberg with the Minister of Health on October 7, I believe it was, a couple of months after the report had been submitted by the commissioner to the government—if my dates are correct or approximately correct—in which there were significant charges made against Mr. Lebel, which will ultimately be dealt with one way or another, lent credence or substance to the report which was unwarranted, having regard to the position that Mr. Lebel is in before the criminal courts.

[10:15]

In that particular case, of course, there were already some charges outstanding—or a charge outstanding—in Sudbury. I think it's been withdrawn and I think the matter is going to be dealt with now in the venue in Toronto.

I raise for the Attorney General the proposition that he should do two things. I hope he would give consideration to warning any commissioner that if he is making adverse comment about a citizen-related matter which might be of a criminal or penal nature if followed through, that he refrain from participating in any forum of public discussion of his report after he has submitted it; and I would ask the Attorney General if he would please draw specifically to the attention of the commissioners the specific provisions of subsection 2 of section 5, which of course is perhaps very much in the minds of a person like Mr. Maloney, and my colleague, Mr. Norton, and myself, and Mr. Grossman who was here a few minutes ago, because of the problem with the Ombudsman's report and the somewhat substantially similar provision of The Ombudsman's Act about persons about whom an adverse report is to be made.

I may be quite wrong and I may just be old-fashioned, maybe there is an obligation on the commissioner to use a public forum to explain what his report is about and to answer questions about it. I don't know the answer to that. Whatever it is let's think about it while it is happening in its initial stages and sort the thing out rather than fall into the trap that they have in Quebec, where the royal commissioners seem to me to appear regularly on television. I am speaking of a former colleague of mine in the New Democratic Party, of course, Robert Cliche, who has been head of that particular commission; and Judge Dutil, who is presently there.

As I say, I haven't sorted it out in my own mind, it's been on my mind, I want to raise it, I think it is something which perhaps the Attorney General—who is probably the one who deals with the particular commissioners—I hope would bear those comments in mind.

Hon. Mr. McMurtry: I think, Mr. Renwick, your comments are very relevant and very appropriate to royal commissions. I know I personally felt some concern, particularly in relation to the Sudbury Hospital report. Mr. Justice Morand's appearance on television, I am told by his commission counsel with whom I discussed this matter, was motivated by his concern in relation to press reports which he felt were somewhat unbalanced in their criticism of the police department. While he had criticized the police department, he had also exonerated them in relation to many of the allegations and he felt that the press reports were not balanced in that sense and also that he had a responsibility, because of the importance to the community of the general credibility of the police department, to attempt to balance the nature of the reporting that had been done. That apparently was what motivated his appearance on television, which I think is understandable.

I personally think that the appearance of Judge Waisberg was unfortunate, because there is no question that it had the potential to influence a potential jury, as you say quite accurately, in adding credence to the charges. First of all, a charge had already been laid against Mr. Lebel before the report was issued and it was quite obvious that there were going to be further charges laid.

I think it is incumbent upon me to alert any commissioners who are appointed as to the care that must be taken in relation to any public appearance. I think, normally speaking, it's probably desirable to remain silent after submitting a report; the report

should speak for itself. There may be special circumstances which may warrant such an appearance, but as a general rule I agree that it is undesirable.

I am quite prepared to so advise any commissioners who have reports pending, at least while I am the Attorney General. I think it is a matter that is quite relevant to the consideration of this item as a general policy consideration relating to royal commissions.

Mr. Renwick: I am glad to hear you say that. I'd like to just comment on the appearance of Judge Waisberg to emphasize again, so that nobody will misunderstand if anybody ever does have occasion to read the estimates of the committee. I questioned a couple of people who were at the so-called lockup when the report was considered and then appeared at the press conference where Judge Waisberg appeared with the Minister of Health (Mr. F. S. Miller). I would have questioned more had it appeared necessary to do so, but it was obviously categorically clear that from a press point of view it was a bust. The commissioner didn't say anything: he conducted himself, so far as to what he said, with perfect decorum. It was the problem of the association with a person who had performed his function, who was finished, associating himself with the Minister of Health about a matter which was, first of all, highly controversial, in one sense, and secondly dealt with a report where serious allegations of wrong-doing were made.

Mr. Vice-Chairman: Okay. Any further comments on this item?

Mr. Roy: Was there a change of venue on this?

Mr. Renwick: They're not changing the venue, but it's going to be tried in Toronto. They have withdrawn one charge and they've laid other charges and the proper venue of the other charges is in Toronto.

Mr. Roy: As a matter of interest, that Judge Waisberg, is that the same judge that was on the inquiry on the construction industry?

Hon. Mr. McMurtry: No, actually it is his brother.

Mr. Lawlor: Is the Robarts commission on Metropolitan Toronto within the terms here?

Hon. Mr. McMurtry: Yes.

Mr. Lawlor: How much is being allocated to that particular—

Hon. Mr. McMurtry: The actual costs, as of March 31, 1976, are set out in the copy I have as being \$610,945.

Mr. Lawlor: And what is the projected cost for the year following that?

Hon. Mr. McMurtry: Do we have that information?

Mr. Lawlor: It must be part of that \$3 million.

Hon. Mr. McMurtry: Having been involved in two royal commissions, I must admit I am not an accountant, I would have some difficulty if I were an accountant, in projecting the cost, because I think these royal commissions take on a life force of their own, quite apart from the commissioner and even the commissioner often has very little control over the length—or limited control would be a more accurate way of putting it.

Mr. Lawlor: Oh, I can quite appreciate that.

How much did the Morand inquiry cost, have you got final figures yet?

Hon. Mr. McMurtry: We haven't figured it; that is, the final. The only figures here are to March 31, 1976, \$622,002. Certainly I would think that that would be most of the cost, because I know the hearings and argument had been completed prior to that date. I don't know to what extent commission counsel would have assisted the commissioner in writing his report; I was led to believe that he was going to write the report largely on his own, but I really don't know. I think it was in July the report was released, but the hearings and formal arguments had been completed as of March 31, 1976.

Mr. Lawlor: Therefore it would have nothing to do with these estimates, that's water under the bridge. The projected estimates, would there be anything in the projected estimates, the estimates we have, within that \$3 million, allocatable to the Morand commission?

Hon. Mr. McMurtry: Oh yes, there would be an additional cost.

Mr. Lawlor: Not very much though.

Hon. Mr. McMurtry: Well, it was projected, according to the figures I have, an additional \$273,000.

Mr. Lawlor: That was going to cost a million bucks. There is a health and safety in mining royal commission, is there?

Hon. Mr. McMurtry: The Ham commission.

Mr. Lawlor: The Ham, that's the Ham commission; how much did it cost?

Hon. Mr. McMurtry: The projected cost, beyond March 31, 1976, was \$100,000.

Mr. Lawlor: Have you got the projected cost figure on the Robarts commission in front of you now?

Hon. Mr. McMurtry: \$238,000.

Mr. Lawlor: What else have we got?

Hon. Mr. McMurtry: Toronto Jail, \$273,000.

Mr. Lawlor: At \$273,000; that's all finished and paid for?

Hon. Mr. McMurtry: No, no, that's projected; that is, it is still going. This is for this fiscal year. I may have given you the wrong figure on the Metro police; it is \$206,000 here, I think I gave you another figure.

Petroleum products pricing, \$516,000.

Mr. Lawlor: Did you say you gave me a wrong figure on something?

Hon. Mr. McMurtry: On the Metro police, did I give you \$206,000 for this fiscal year? I thought I gave you another figure. Maybe that was the figure.

Mr. Lawlor: Are we talking about the Morand commission?

Hon. Mr. McMurtry: Yes.

Mr. Lawlor: I got a figure of \$273,000.

Hon. Mr. McMurtry: Yes, well I thought I might have given you that figure. I read the wrong figure; it was \$206,000 for Morand; and \$273,000 for Toronto Jail, Judge Shapiro's. Then the LaMarsh commission, \$821,000.

Mr. Lawlor: Oh, the LaMarsh commission; how much?

Hon. Mr. McMurtry: It is \$821,000.

Mr. Lawlor: Oh my glory. Our million dollar baby.

Mr. Vice-Chairman: Any other on this item?

Vote 1201 agreed to.

Mr. Vice-Chairman: The committee is adjourned until after question period tomorrow morning. For the sake of those who are trying to arrange a schedule, I believe it's November 4, in the evening — Thursday, November 4, the committee will not sit, and we normally would.

And we do not sit on Monday evening either.

The committee stands adjourned until tomorrow after question period.

The committee adjourned at 10:29 p.m.

CONTENTS

Thursday, October 28, 1976

Law Officer of the Crown programme	S-2393
Deputy Attorney General	S-2393
Policy development	S-2399
Law research	S-2409
Royal commissions	S-2413
Adjournment	S-2416

SPEAKERS IN THIS ISSUE

Breaugh, M.; Vice-Chairman (Oshawa NDP)

Lawlor, P. D. (Lakeshore NDP)

McMurtry, Hon. R.; Attorney General (Eglinton PC)

Renwick, J. A. (Riverdale NDP)

Roy, A. J. (Ottawa East L)

Ministry of the Attorney General officials taking part:

Callaghan, F. W., Deputy Attorney General

Campbell, A. G., Senior Crown Counsel, Policy Development Division

McLoughlin, B. W., General Manager



Government
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SUPPLY COMMITTEE—1

ESTIMATES, MINISTRY OF
NATURAL RESOURCES

OFFICIAL REPORT — DAILY EDITION

Third Session of the 30th Parliament

Friday, October 29, 1976

Speaker: Honourable Russell Daniel Rowe

Clerk: Roderick Lewis, QC

THE QUEEN'S PRINTER
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1976

CONTENTS

A list of the speakers taking part in the debates in this issue of Hansard appears, in alphabetical order, at the back of this issue.

Daily contents of proceedings also appears at the back of this issue. Reference to a cumulative index of previous issues can be obtained by calling the Hansard Reporting Service indexing staff. (Phone 965-2159)

LEGISLATURE OF ONTARIO

SUPPLY COMMITTEE

FRIDAY, OCTOBER 29, 1976

The committee met at 11:10 a.m.

ESTIMATES, MINISTRY OF NATURAL RESOURCES (continued)

Mr. Vice-Chairman: It has been brought to my attention by Mr. Clarke Rollins, the chairman of the St. Lawrence Parks Commission, that he would like to go to vote 2303, item 3, after we finish item 7 on vote 2302. He has staff members with him from the commission and if the committee would like to debate item 8 on vote 2302 and go to vote 2303, item 3, and finish the St. Lawrence Parks Commission; it is your committee, you make the decision.

Mr. Ferrier: Why don't we do Clarke's commission first so his people can make their presentation and be sure to get away?

Mr. Vice-Chairman: Is that agreeable to the committee?

All right. Then we will go to vote 2303, item 3, St. Lawrence Parks Commission.

Who would like to start off?

On vote 2303, outdoor recreation programme; item 3, St. Lawrence Parks Commission:

Hon. Mr. Bernier: Maybe there are going to be no questions. A well-run operation, looking after the recreational needs of those people in southeastern Ontario.

Mr. Vice-Chairman: Would you like the chairman of the commission to make an opening statement?

Mr. Ferrier: Yes. Could we have a report of the last year's activities?

Mr. Rollins: Mr. Minister, Mr. Chairman, members of the committee: As chairman of the St. Lawrence Parks Commission, we have had a very successful year, with the visit of Her Majesty in midsummer; it was certainly very rewarding to the general area. We have made some improvements. We have under construction and in its final stages, the Raisin

River Park, which is something that will add a service in the parks system. Our golf course has been a very successful operation this year and has given a service to the community that has been well accepted.

Our store in Upper Canada Village has been operating very successfully and is most encouraging from the efficiency with which it has been handled. I would like to say to members of the committee that under the general management of Mr. John Sloan, the overall operation has been working in a co-operative manner with Fort Henry and the parks system. The overall programme has been coming along very nicely. Possibly Mr. Sloan would like to add to some of the items that I have mentioned and maybe elaborate a little more fully in some departments.

[11:15]

Mr. Sloan: Just to pursue a little further the chairman's remarks and to draw to your attention some of the highlights of this current year, for which we're expending the funds that we're discussing here this morning, as Mr. Rollins has indicated we are developing and are in the final stages of completing this fiscal year two park areas, an 89-acre campground at the Raisin River, with 100 campsites and a 30-acre day-use area at Lakeview Heights, which is about three miles west of the city of Cornwall.

We also are, or have been over the past two fiscal years, embarking on an extension to our winter recreation programme. As you will recall from reading our annual report, we have introduced at Upper Canada Village, for example, sleigh rides through the village for the public. We have introduced skating on the village canal, which has proved to be very popular. We have developed and extended our cross-country ski trails through the Chrysler Park area. Our store is open during the time that winter recreation is being participated in, and therefore we sort of have a package deal with revenue coming in through the store and the sleigh ride. The cross-country skiing and snowmobiling of course are free, with no charge.

I think that's all I'd like to say at this time, Mr. Chairman.

Mr. Vice-Chairman: Mr. Minister, would you like to comment?

Hon. Mr. Bernier: I have no comment. I think the member for Rainy River would like to say a few words.

Mr. Vice-Chairman: Mr. Williams had his name down first.

Mr. Reid: Okay, I'll come back next week then.

Mr. Vice-Chairman: Okay.

Mr. Williams: Through you, Mr. Chairman, to Mr. Rollins or Mr. Sloan: You referred to two new site developments. There were 30 acres near Cornwall, and then there were 89 acres. Where was that site?

Mr. Sloan: That's just west of Lancaster in the county of Glengarry.

Mr. Williams: Are they both being developed with the same type of consumer appeal in mind? Are they campsites, are they—

Mr. Sloan: The one at Raisin River is a campsite. It has 100 campsites. The Lakeview Park project is a day-use picnic, swimming facility.

Mr. Williams: That's the 30 acres?

Mr. Sloan: That's the 30-acre site, sir.

Mr. Williams: With these additional 119 acres coming on stream, what's your total acreage now under jurisdiction of the commission?

Mr. Sloan: Approximately 10,119.

Mr. Williams: Ten thousand, is it?

Mr. Sloan: Right; and we extend 170 miles, from the Quebec border to Adolphustown west of Kingston.

Mr. Williams: These two new sites, they'll be in place and operational come this next season?

Mr. Sloan: We hope, if operating funds are made available, that we'll have both of those sites open in fiscal year 1977-78.

Mr. Williams: I presume the staff complement hasn't been hired on as yet, have they?

Mr. Sloan: No, sir. Both those parks wouldn't be operated with permanent complement. They'd be seasonal employees.

Mr. Reid: Mr. Chairman, I notice that your budget seems to be down over last year. That's something you're to be commended on. What does the chairman of the commission get per annum?

Mr. Rollins: Per annum? Five thousand dollars.

Mr. Reid: And how many meetings do you go to?

Mr. Rollins: We try to have one per month, unless there's an occasion where it is necessary to have an additional meeting some time through the year as the occasion may arise.

Mr. Reid: Do you have any other duties other than attending the monthly meetings?

Mr. Rollins: Yes. As chairman of the commission you are in touch with your general manager on practically, I wouldn't say a daily basis but certainly more than once a week as to the operation of the St. Lawrence Parks Commission inasmuch as we try to operate it on business principles, and we take it very seriously.

Mr. Reid: You're not thinking of retiring, Clarke, are you?

Mr. Rollins: No, I am not; not at the present time.

Mr. Reid: Salaries and wages, \$3,774,900; how many people does that cover?

Mr. Sloan: We have a permanent complement of 124, and we run seasonally about 600.

Mr. Reid: What are the revenues from St. Lawrence Parks Commission? I'm sorry I don't have the annual report with me.

Mr. Sloan: The actual revenues for 1975-76 were \$2,725,962.

Mr. Reid: So it is costing the taxpayers approximately \$4 million a year to operate the St. Lawrence Parks system?

Mr. Rollins: Just at this point, not in essence because there is a revenue that goes to the consolidated revenue fund from the St. Lawrence Parks waterways that is not on that. It goes in, but we get some benefits from that.

Mr. Reid: I am sorry, I don't understand what you are referring to.

Mr. Rollins: We don't get any revenue from the St. Lawrence Parks, directly from the waterway.

Mr. Reid: From the waterway?

Mr. Rollins: No.

Hon. Mr. Bernier: Water rentals.

Mr. Reid: Water rentals?

Mr. Rollins: No.

Mr. Reid: That goes directly to the consolidated?

Mr. Rollins: To the consolidated.

Hon. Mr. Bernier: That is Ontario Hydro's contribution.

Mr. Reid: When we are looking at supplies and equipment \$1,402,800, what are we referring to there? That is almost one fifth, more than one fifth of your budget.

Mr. Sloan: First of all, about \$650,000 of that amount is for saleable merchandise. This is the merchandise that we sell in our retail sales outlets. Also included in that item are all our building materials and supplies that we procure for the entire parks system. Also electricity and heat, plumbing and heating and electrical supplies, sand gravel, stone, repairs to equipment, are all included in that item.

Mr. Reid: You say that you are buying souvenirs and things for resale, \$600,000. What is the revenue you derive from those? I would think it would be somewhere in the neighbourhood of \$1 million or \$1.5 million.

Mr. Sloan: I can give you that exact figure, the total revenue from sales. Maybe I could break it down for you at Upper Canada Village. For example, sales there run to \$770,000, Fort Henry would be \$275,000, and in other areas \$110,000. So we are well in excess of \$1 million.

Mr. Reid: Then you are only receiving somewhere in a little excess of \$1 million, for what else? You said your revenues were about \$2.5 million.

Mr. Sloan: Well, there are entrance fees to the parks, both for camping and day use. There are fees for the golf course; then there are the number of concessions we have throughout the system.

Mr. Reid: Who operates the concessions? Are they rented and they pay you a fee, or does the St. Lawrence Parks Commission operate the concessions?

Mr. Sloan: Some concessions we run, and a number of concessions, particularly in the parks area, are tendered out.

Mr. Reid: Have you looked at your revenue side lately to see if you can improve the revenue?

Mr. Sloan: Yes, we are in the throes of doing that right now.

Mr. Reid: Who audits your books? Is it done by the Provincial Auditor or do you hire an outside auditor?

Mr. Sloan: No, sir, under The St. Lawrence Parks Commission Act the Provincial Auditor has to audit our books once a year.

Mr. Ferrier: I would like to ask a couple of questions and also say that we are pleased to get complimentary passes each year. While we may not use them all the time we have enjoyed visiting the St. Lawrence Parks, particularly Upper Canada Village. I had only one question and it was to do with promotion. I gather this last year would be a very good year because of the Olympics. Could you tell us if the usage of the parks and attendance at Upper Canada Village was appreciably up because of the Olympics this year?

Mr. Sloan: No. I am sorry to report that in 1976, although the final figures are not available to me at the moment, it would appear that we will be down from the previous year and this is something we are taking a look at. It seems to be a trend throughout the province that tourism in Ontario in 1976 is down. Our golf course was up; Upper Canada Village remained the same. It was the camping facilities which seemed to be affected. We were down about eight per cent in camping and, of course, day use is down about 15 per cent in our park system. A lot of that is accredited to the very inclement weather that we had in the south. We wish we had had our park system in the north this summer.

Mr. Ferrier: We did have good weather. It is a little surprising that the Olympics didn't promote it. I would have thought there would have been a great increase, particularly in visiting Upper Canada Village. Are you part of a tourist council or do you identify your own market and make your own promotion in that market?

Mr. Sloan: We identify our own markets and we do our own promotion. However, I should say that there is a tourist association,

the Eastern Ontario Travel Association, which is a very viable association. We work very closely with them and, of course, there are various tourist councils under the umbrella of the Eastern Ontario Travel Association, for example, the Seaway Valley Tourist Council. My staff works very closely with those associations because we feel it is only through a co-operative effort that we can properly promote eastern Ontario and therefore the St. Lawrence Parks system.

Mr. Ferrier: Have you found that your market is pretty well spread throughout Ontario or are there parts of northeastern United States to which you also devote a considerable degree of promotion?

Mr. Sloan: We devote some of our promotional dollars to the US market and when I say that I am really talking about northern New York State. Our prime market is Ontario. We do some promotion in the province of Quebec because we are so close to that province but our visitation in general terms is running about 56 per cent from the province of Ontario; 20 per cent from the United States market; 18 per cent from the province of Quebec; and six per cent from other areas. I hope that adds up to 100 per cent.

Mr. Ferrier: You would have a number of students, particularly in the month of June, from Ontario schools who would take tours down there, would you not?

Mr. Sloan: Yes. Including the May and June visitations and September and October, we have in the order of 60,000-70,000 school children taking advantage of Upper Canada Village, for example.

Mr. Ferrier: That is very worthwhile. I don't have any more questions.

Mr. Godfrey: My question, Mr. Chairman, is more for information. Will the proposed federal expropriation of a large amount of land down there for a federal park affect your operation at all?

Mr. Sloan: We are not too sure at the moment exactly what will transpire with the proposed expansion of St. Lawrence Islands' national park. We are in touch with the federal people. As you may know, sir, the minister in charge of Parks Canada has appointed an advisory council which is holding public hearings on the proposed expansion to see whether the expansion is viable and how it will affect the local people let alone the St. Lawrence Parks Commission. We are obviously involved because in the area they

are talking about we have some 3,500 acres under our management.

Mr. Godfrey: Are those 3,500 acres involved with this expropriation or are they contiguous or what?

Mr. Sloan: It is in the area of the expansion proposal by Parks Canada.

Mr. Godfrey: Aside from the merits of expropriating the land of private citizens or not—which is abhorrent to some governments—do you think this is a necessary kind of expansion? In other words, are the facilities we are providing at present through the Ontario government sufficient to take care of the foreseeable need for recreational areas in the future? Could we have a professional opinion as to whether we need more land set aside for recreation in that area?

[11:30]

Hon. Mr. Bernier: If I may just comment on that, Mr. Chairman, I have indicated to the Minister of Indian and Northern Affairs, who is responsible for national parks in Canada, our less than enthusiastic support for the expansion of their St. Lawrence national parks programme in that particular area. I have related this to him, he knows our feelings. In fact I think it is fair to say that we in the province of Ontario are less than enthusiastic about national parks anywhere in this province.

Mr. Reid: We got that impression over the years.

Hon. Mr. Bernier: Yes, I have made the impression; I've made our feelings known publicly on many occasions: We have a tremendous park system, one of the finest on the North American continent, operated by this province. It takes in millions of acres of land. We are operating it exceptionally well, and the acceptance by the general public is most encouraging; to have a duplication or an overlapping, we don't think is really necessary in the public interest at this time.

Mr. Godfrey: Mr. Chairman, through you to the minister: Then it is your opinion we do not need this expansion by the federal parks?

Hon. Mr. Bernier: Let me put it this way: We are not enthusiastic about further expansion.

Mr. Godfrey: You are very polite, sir. Thank you.

Mr. Cunningham: I just have one question as it relates to the promotion of the St.

Lawrence Parks Commission, and that is as it relates to advertising agencies. Do you have an advertising agency?

Mr. Sloan: Yes, sir.

Mr. Cunningham: What is the name of the agency?

Mr. Sloan: Camp Associates.

Mr. Cunningham: Camp Associates. Would that be Dalton Camp?

Mr. Sloan: No. I don't know.

Mr. Cunningham: Who do you deal with at that agency?

Mr. Sloan: They have an account executive who deals with it. It is a young lady; her name I don't recall at the moment. I deal directly with the vice-president, who is not Mr. Camp.

Mr. Reid: Who is it?

Mr. Sloan: Mr. John Andrews.

Mr. Reid: He is the Mr. John Andrews?

Mr. Cunningham: I am just wondering on what basis—is this agency retained on an annual basis? Do they submit tenders on a yearly basis? I am just wondering how the province of Ontario contracts with them. It just goes on in perpetuity or do you ask for submissions?

Mr. Yakabuski: We aren't trying to copy Ottawa.

Mr. Sloan: The commission tendered the advertising programme in 1960 and there were a number of presentations at that particular time. Camp Associates were chosen at that particular time.

Mr. Cunningham: In 1960?

Mr. Sloan: Yes, sir. Now, if I might continue, what happens annually with our advertising promotion programme is there is a presentation to the St. Lawrence Parks Commission and the commission revises or accepts, modifies the proposal of the advertising proposal. Once the proposal is accepted by the commission and budget figures are put beside it, those figures are then examined to see whether they are realistic to be expended in that particular year. If they are, then the chairman of the commission enters into an agreement annually with the firm to expend those funds in the areas that the commission has approved, so that there is an annual agreement for a specified amount of money to be expended on behalf of the commission.

Mr. Cunningham: Sir, you will understand that the basis of my concern is the lack of competition in this particular regard. While the costs of the media that you use may be constant, the quality of an agency may improve. Given that there must be 100 or 150 good agencies here in Ontario, I am just wondering to what end you might consider opening this up.

Mr. Rollins: At the present time we have started, in the last two or three years, an expansion programme on advertising. It has been reorganized and there is careful consideration at all levels before any decision has been made on it. It is brought back to the commission as to what the programmes will be, and the members of the commission have accepted it. It is our knowledge, through the work that has been done in revamping our advertising, that it has been a successful campaign, in our opinion.

Mr. Cunningham: Sir, you will understand that the basis for the thrust of my question really is my concern about the process in which you continually, on an annual basis, rehire this agency.

Mr. Rollins: Well what is the alternative? Suppose we did consider some alternative and it wasn't satisfactory, when we are getting the assurance of—

Mr. Makarchuk: You would hear it from the Premier's office then.

Mr. Rollins: —the programme, then we would be in a rather peculiar position. At the present time the programme that we have been working under has been carried out in a satisfactory manner.

Mr. Cunningham: Might I offer you this alternative? Would you consider, on an annual basis, indicating, almost on a tender basis, a request for—how would I put it?—submissions from the advertising industry; notify Marketing Magazine and the major papers and indicate that you would like to have submissions made, so that you might possibly get a fresh approach to this and that each agency might submit its own ideas and possibly deal quite openly with the government? I want to tell you I am offended, on a continuing basis, by your preoccupation with your friends. This disturbs me greatly, and I want to assure you that this is not a particular method of doing business that I endorse.

Mr. Rollins: I could only say that I would be agreeable to take it back to the commission for discussion. I would not want to make

a definite commitment here without having a meeting with the members of the commission to get their—

Mr. Cunningham: Certainly you would agree, though, that if we haven't had a change in agencies for 16 years, that the time possibly might be long overdue to have an opening up of this process.

Mr. Rollins: No, we are quite satisfied with the job that is being done at the present time. This is something that has taken a lot of time on behalf of the general manager and members of his staff, working out a programme, because we want to continue to identify the St. Lawrence Parks Commission as an operating unit in southeastern Ontario. We are very proud of the St. Lawrence Parks Commission's operation and the people who work on this parks commission. We are not hesitant in using every means available to promote the programme.

Mr. Cunningham: Mr. Rollins, I want to tell you that the people in my party, I know, share your appreciation for the good work that goes on, and we are all very proud of the park too. But I think you are missing the thrust of my argument here, and it might be my fault, I am not sure.

Mr. Makarchuk: No, he isn't.

Mr. Cunningham: But the point I am trying to make to you, sir—

Mr. Drea: You are learning from an old pro.

Mr. Cunningham: —with respect, is the contractual arrangement that you have with one certain advertising agency.

Mr. Drea: Tell him you want MacLaren and let the man finish up.

Mr. Cunningham: I am not saying any agency, I am saying open it up; and I am sure that the minister would agree with me, as possibly the Minister of Industry and Tourism (Mr. Bennett) would, who I understand uses the same agency, that an open process here would, I think, be of great benefit to every citizen in Ontario.

Hon. Mr. Bernier: Mr. Chairman, if I may interrupt; I think Mr. Rollins' acceptance of your suggestion that he will take it back to the commission is very acceptable; it's a very acceptable one to me, really.

Mr. Yakubuski: Mr. Chairman, Mr. Minister, there were a couple of questions with regard to St. Lawrence Parks. I am wonder-

ing what your daily camping rate is for trailer or whatever?

Mr. Sloan: It's the same as provincial parks, \$3.50; and 50 cents for electrical outlets.

Mr. Yakubuski: And 50 cents for electrical outlets; so it's exactly the same as in any other provincial park.

Mr. Sloan: Yes. It's the commission's policy to have their levy for camping the same as provincial parks.

Mr. Yakubuski: Are senior citizens exempt from that rate?

Mr. Sloan: Yes, under the regulations senior citizens camp free.

Mr. Yakubuski: Would that cover senior citizens from any area, whether it be Manitoba, Quebec, the US or elsewhere?

Mr. Sloan: The regulation reads "Canadian senior citizens."

Mr. Yakubuski: What portion of your campers would be from the province of Quebec?

Mr. Sloan: I am sorry, I don't have that figure. I know that our overall visitation in the entire system, not only camping, is approximately 18 per cent of the total.

Mr. Yakubuski: From the province of Quebec.

Mr. Sloan: Yes.

Mr. Yakubuski: Someone mentioned that not only in the St. Lawrence Parks but in some of the other parks there are certain abuses creeping in, such as a senior citizen parking a trailer at a site and their families, their nephews, their friends and everyone using it? Are you running into that kind of abuse?

Mr. Sloan: We are encountering some difficulties with senior citizen usage of our campgrounds, yes.

Mr. Yakubuski: Would you enlarge on that a bit please?

Mr. Sloan: I would only say that over the past two years, for example, the numbers of senior citizens taking advantage of free camping in the St. Lawrence Parks Commission system has doubled. We are talking in the order of 11.5 per cent of campsite occupancy being occupied by senior citizens. The regulations read that you can occupy a campsite for 28 days, so you can see that there is

a reaction from legitimate paying campers that the prime sites are being occupied by senior citizens.

Mr. Reid: Well, they are legitimate too. They paid all their lives.

Mr. Sloan: They are legitimate, but I am just attempting to explain the problems in the field for our managers of parks that are getting public reaction.

Mr. Reid: You gave the impression they were not legitimate people.

Mr. Sloan: No, sir, I didn't mean it that way. There are instances of which I am aware of senior citizens registering their camper, occupying it, and then friends, relatives, etc., taking advantage of it for periods of time.

Mr. Yakabuski: Do you see any answers to that kind of programme? I am sure there is no one in this room or anywhere else that wants in any way to penalize a senior citizen. We think they are entitled to that right. They have devoted a great part of their lives to developing this province and this nation. But do you see answers to the problem you are facing there with relatives, friends and that kind of abuse creeping in?

Mr. Sloan: I am sure there is some resolution. We are talking now with Mr. Bernier's staff in the ministry's parks division to compare notes with their operation and see how we can better improve that particular situation and re-examine the whole senior citizens' programme.

Mr. Yakabuski: There is the other facet too. I am told by people who visit those parks frequently that some of the equipment is very sophisticated. There are trailers that maybe are worth \$40,000 to \$50,000 owned by senior citizens. Again, I don't think we are looking for any means test or anything, but this seems to be a bug in the craw of other people who wish to use these parks and feel that here are some of the elite that are taking advantage of something that was meant for the average senior citizen.

Mr. Sloan: I would only make the comment that we have observed some senior citizens driving in Winnebagos, for example.

Mr. Reid: And some driving in in Volkswagens.

Mr. Sloan: Right, with tent.

Mr. Yakabuski: That's the kind we are looking for, the Volkswagens.

Mr. Ferrier: The Winnebago may have been rented; you never can tell.

Mr. Reid: You must be leading the Conservative Party, Bill.

Mr. Yakabuski: That concludes my remarks. I was just wondering if you were searching for and coming up with any solutions to some of these abuses that are creeping in.

Mr. Sloan: Yes, we are examining that right now.

Mr. Makarchuk: Have you thought about the idea, Paul, of the grandmothers bringing all the grandchildren to ensure they put the grandmothers on the pill?

[11:45]

Mr. Yakabuski: No, you see there are other things too. There are socialists driving 60-foot yachts. At least I think they call themselves socialists. I would prefer to see a Volkswagen with a rent-all hooked on the back.

Interjections.

Mr. Yakabuski: It would be more in keeping with their ideologies.

Mr. Reid: If you park there for 28 days, you get to hold it in trust for the state.

Mr. Sloan: can you tell me, have you experienced any difficulties with rich socialists in Winnebagos camping for 28 days? I wonder can you tell me what is your advertising budget per year?

Mr. Sloan: Approximately \$200,000.

Mr. Reid: Would you say that's the norm for an enterprise of this size?

Mr. Sloan: I would believe that to be true.

Mr. Reid: It's about three to five per cent of your operating budget?

Mr. Sloan: Yes.

Mr. Reid: I wonder if I could just ask the minister, by way of what Mr. Yakabuski was asking, has the ministry not considered cutting down the length of time, the 28 days' camping? The minister knows that we in northern Ontario have problems and he has his same problems in his own riding—particularly with our American friends coming up, and putting a trailer on a site for 28 days, whether it's in a park or elsewhere, and then in some

cases either renting it out or their friends come up by the carload and use that spot for 28 days. It's not just in parks but beside lakes and designated parking spots. Have you given any consideration to that?

Hon. Mr. Bernier: Yes, we are looking at this whole aspect of park attendance at the present time, in connection with our Crown land camping programme in northern Ontario, the experiment. It's interesting that on Crown lands they can stay there under The Public Lands Act for 21 days and within our parks system it's 28 days. So we are looking at that whole aspect of the problems it is causing. A lot of people like to bring out their equipment for that period of time because 21 days, a three-week period, is now the normal holiday period. That's one of the things that we are looking at very carefully.

Just to comment further on the question of senior citizens, we are reviewing that aspect of it too. One suggestion before us is that the senior citizens of Ontario be given priority or maybe exclusive right to the privileges we offer in provincial parks and narrowing it down from the Canadian privilege right across Canada because other provinces are not extending that same situation to our people as they move across Canada. We are looking at the whole aspect of park attendance and fee structure, I may say too.

Mr. Reid: It's length of stay though that we are primarily concerned about. I would just like to go back to what I was asking before, if I may. You hold meetings once a month?

Hon. Mr. Bernier: Yes.

Mr. Reid: Does that mean 12 meetings a year or do you take July and August off?

Mr. Rollins: It's 12 meetings a year.

Mr. Reid: It is 12 meetings a year.

Mr. Rollins: There's something else. I would have to add also if something of a special nature comes in during this current summer but we do have 12 or more meetings a year. There are 12 regular meetings.

Mr. Reid: How many are on the board besides yourself?

Mr. Rollins: There are 11.

Mr. Reid: What are they paid?

Mr. Rollins: The vice-chairman is paid \$2,500 and the commission members are paid \$60 a meeting plus mileage.

Mr. Reid: How is the attendance at the meetings?

Mr. Rollins: The attendance is better than 90 per cent.

Mr. Reid: And you, as chairman, have attended in the last year all of the meetings?

Mr. Rollins: Yes, I have.

Mr. Reid: Are the minutes of the meetings available to the public?

Mr. Rollins: No. They are commission minutes and they are available to the ministry.

Mr. Reid: So the members of the committee wouldn't be able to look at the minutes, for instance? The members of this legislative committee wouldn't be able to look at the minutes?

Mr. Rollins: No, they are commission minutes and they are on record. It's just a policy.

Mr. Reid: Would it be possible for you to table with the committee the attendance of the members of the commission at the meetings for the last couple of years?

Mr. Rollins: We would be able to do that, but we wouldn't possibly be able to do it today.

Mr. Reid: No, no.

Mr. Rollins: We would be able to do it at the first opportunity, yes.

Mr. Drea: The St. Lawrence Parks seem to be singularly free of one of the problems that seem to be affecting a great number of provincial parks as well as municipal parks these days—that is, the alcohol problem. Is that merely because the word doesn't come back this far or is it because there isn't one? If there isn't one, I would like to know how you and your particular facilities seem to have avoided it?

Mr. Rollins: I would say there is tremendous co-operation with the Ontario Provincial Police. Should something arise it is kept under very strict control, and Mr. Sloan has his staff there. We are always endeavouring to improve for the enjoyment of the public. I couldn't conscientiously say here to this committee that we are free of all problems but we have eliminated them as much as possible through the efforts of Mr. Sloan with his staff constantly working and watching for a routine situation and trying to prevent it.

Would that not be right, that the co-operation from the Ontario Provincial Police and also from other sources has been great?

Mr. Sloan: I don't think you can overstate the kind of co-operation we are getting through the Ontario Provincial Police, but we are encountering alcoholism and rowdiness in our parks as is the provincial parks system as a whole.

Mr. Drea: But you seem to be having less difficulty coping with it than elsewhere, despite the fact that you are on a main thoroughfare and it's a very popular place.

Mr. Sloan: Of course, one of the things might be that the number of sites in each campground is quite smaller than in the large provincial parks so that the problem is extended percentage-wise. If you are talking about a provincial park that has 500 or 600 campsites where we might have 100 or 200, the problem obviously is reduced with the numbers that can occupy sites within a park. But I would stress we do have problems with alcoholism, rowdiness and vandalism. It's a continuing concern to us.

Mr. Drea: How much of a problem is, let's say, vandalism associated with alcohol? Let's say from the time that alcohol was legally put into the parks. What would the ratio be of vandalism then and now? Just in ball park figures, is it much worse or less?

Mr. Sloan: I wouldn't think it's much worse. I think the increase is reflected in the increase in the people taking advantage of camping because the numbers of people camping have changed over the years. The graph has escalated except for this particular year. I haven't really answered your question but I don't think there has been a great increase since alcohol has been legally allowed.

Mr. Drea: At least in your particular system.

Mr. Sloan: In the St. Lawrence Parks system.

Mr. Drea: Tell me where would most of your clientele come from? Would it be primarily from Ontario?

Mr. Sloan: Fifty-six per cent of our consumers are from the province of Ontario.

Mr. Drea: And where would the Americans fit into that?

Mr. Sloan: Twenty per cent.

Mr. Drea: And the rest is from where?

Mr. Sloan: Eighteen from Quebec and the rest other places.

Mr. Drea: What is going to happen with the downturn in American tourism when you look at the future developments of an installation like yours?

Mr. Sloan: We are looking at the American market because there has, over the last two years, been a small decline in American visitation to our particular resources. Of course this year was a difficult year. It will be a difficult year to analyse because it was bicentennial in the United States. I am led to understand that traditionally an election year in the United States means that Americans don't travel. I don't know that. That's what the tourism experts say but we are, and we know we are, in a competing market and people are becoming more selective in the kinds of holidays and travel patterns that they are particularly selecting. Of course the energy problem is dictating the different types and modes of transportation and we are taking a close look at the mass transit market and talking very closely with the National Tour Brokers' Association. I am particularly talking now in respect to visitations to our two major historic sites.

Mr. Drea: When you are talking about that, you are talking about bus?

Mr. Sloan: Yes, sir.

Mr. Drea: Then that's in conjunction with the people in the States—

Mr. Sloan: Yes—

Mr. Drea: —the tour operators.

Mr. Sloan: —and in Canada because we have found at least in our system that that kind of thing is increasing.

Mr. Drea: Thank you, Mr. Sloan.

Mr. Makarchuk: Mr. Rollins, getting back to your salary—you get \$5,000 a year as chairman of the commission. Do you also claim expenses in addition to that? Do you claim expenses for attending meetings and so on?

Mr. Rollins: The only one is mileage.

Mr. Makarchuk: You claim mileage. This is what really puzzles me. You claim mileage and the mileage fee is paid from the parks commission. Is that correct?

Mr. Rollins: Yes.

Mr. Makarchuk: I was looking at the annual report that has just come out from the accountant's office indicating the amount of mileage that the members had travelled and I notice that you had the highest. You have something close to 60,000 miles that you travelled in a year. You have it divided up as constituency business and legislative business, the same as other members.

Mr. Rollins: Yes.

Mr. Makarchuk: And you are drawing from there, of course—

Mr. Rollins: For constituency.

Mr. Makarchuk: And legislative?

Mr. Rollins: Yes.

Mr. Makarchuk: And you are also drawing from the parks commission. Could you give me an indication how much mileage you figure you have assigned to your parks commission? What concerns me is that I know some truck drivers who are making a living driving all year and they do not put in that amount of mileage.

Mr. Rollins: That's right, possibly they don't if they have close haulage. But if you are using my riding area, and where I have to use a car for transportation in the county of Hastings and also the county of Peterborough, I would say I drive criss-cross and the various ways in and out of Toronto. But I would be glad to get you the amount of mileage for the St. Lawrence Parks Commission.

Mr. Makarchuk: For St. Lawrence Parks.

Mr. Rollins: I will be glad to do it for you. Item 3, vote 2303, agreed to.

On vote 2302, land management programme; item 7, land, water and mineral title administration.

Mr. Reid: I know that it's not the thing to do but I always like to ask at least one question dealing with money. What is under land, water, mineral title administration charges—contracts, security deposits? Can you explain what that \$65,000 is?

Hon. Mr. Bernier: That's in all our votes. I will ask the director of administration, Mr. Spry, to explain it. I think this is the second time he has explained it.

Mr. Reid: I am sorry, it has been explained?

Hon. Mr. Bernier: Yes, but he will explain it again. I asked the same question when I saw it in the book.

Mr. Spry: I think, Mr. Chairman, since Mr. Churchill did such an excellent job on the \$25,000 item, perhaps he would be good enough to tackle this one as well.

[12:00]

Mr. Churchill: This item is a statutory item which the Treasurer (Mr. McKeough) has asked us to put into our estimates. It covers the refunds of deposits on The Pits and Quarries Control Act where, to operate a pit or quarry, they deposit so much with the Treasurer in good faith for re-establishment of the disturbance of the territory. The money collected is put into the revenue—not in consolidated revenue, but in trust—and when the payment is made out of it, it comes out of our estimates expenditure under statutory authority, not under a voted item.

Mr. Reid: The money goes into what revenue fund?

Mr. Churchill: The security fund is a revenue item. The idea behind it is that the—

Mr. Reid: Where does that money wind up?

Mr. Churchill: It is held in trust by the government. It is not used for any other purpose. The total amount deposited is shown on the revenue account and there is a corresponding counter-entry on the expenditure account, which appears in our estimates.

Mr. Reid: And they get the deposit back if they comply with The Pits and Quarries Control Act and so on. I know this is relatively new, but is \$65,000 an average figure?

Mr. Churchill: That figure is low.

Mr. Reid: Low?

Mr. Churchill: It has gone above that figure.

Mr. Reid: So you are telling me that most of the people are complying with The Pits and Quarries Act to the satisfaction of the ministry?

Mr. Churchill: Presumably so, yes.

Mr. Reid: What do you mean by presumably? They either are or are not.

Hon. Mr. Bernier: That wouldn't be his area to comment on.

Mr. Reid: All right. That's fine. I just have one other question—I'm sorry; if this is in Hansard, I won't go over it again. What is covered by the transfer payments item for annuities and bonuses to Indians under Treaty No. 9?

Dr. Reynolds: I'm sorry, I can't tell you right away.

Mr. Reid: While we're waiting, maybe I can go on and ask a very small question in regard to mapping. We were talking about this the other night—and I have a letter on my desk from the minister that you're going to try some mapping around the Timmins area. I believe—but it's been brought to my attention by one of my constituents that the cost to retailers of maps for boating and fishing purposes has doubled in the last year, while the commission paid to the retailers by the ministry has been cut in half. I believe the commission used to be 50 cents per map and it's now 25 cents a map, although the price has doubled. I wonder if there is any explanation for that.

Hon. Mr. Bernier: On that point, I'll ask one of the gentlemen to comment. Does anyone here have the answer? I'm surprised that has occurred, because I think one of the thrusts of the government is that if we are going to use the private sector to be the sales agent, then we should be making sure they are properly compensated or have a fair return for the amount of investment. You'll note that even in the area of hunting and fishing licences, we are trying to increase the amount of commission to the individuals because the security amounts are getting relatively high. For example, a non-resident moose licence is \$175; and if they must have that over the weekend, there is a certain number of problems there. We're trying to increase that commission, but to have it reduced in the sale of maps comes as a bit of a surprise to me. I'll certainly look into it, because being the free enterpriser that I am, and trying to encourage that segment of our economy, I think it should be increased or at least kept stable but certainly not decreased.

Mr. Reid: Especially when you consider that some of these people must have a fairly large inventory of maps and they're only getting 25 cents. But the other side of the coin is, why the doubling in price?

Hon. Mr. Bernier: I think that's in direct relationship to our cost. I believe it doesn't even come anywhere near the cost of preparation of that particular map.

Mr. Reid: I am surprised at the low cost but it did double. The other side is that the commission was apparently cut in half. Perhaps you would look into that.

Hon. Mr. Bernier: I will look into that. Thank you very much for bringing it up.

Dr. Reynolds: Mr. Reid, if I might, on your previous question, what I know of this topic is almost totally contained on this sheet of paper. If it is inadequate, I would be glad to see that you get the information. I understand that this item of annuities and bonuses to Indians under Treaty 9 this year is shown as \$49,300, which is an increase of \$2,400 over the previous year. It represents the compensation paid annually by the province to the government of Canada for its disbursements to Indians in connection with the ceding to the Crown of a large area lying north of the Albany.

The amount is computed annually by the federal government and is based on the number of Indians entitled to benefit under the treaty. I have a table here of how those totals are arrived at. Briefly, they are paid to men, women and children, and I have the figures here as well. They are paid on the basis of \$4 per annum for each Indian, plus an \$80 enfranchisement fee—relinquishment of treaty rights. I would be glad to have that filled out, if you would like more information.

Mr. Reid: I would actually. I presume that it is like the other treaties in that it is based on per capita population as you sort of indicated; so this is a figure that may very well increase as time goes on.

Dr. Reynolds: Yes, it is up by \$2,400 in the current fiscal year over the previous one so there is a tendency for the population to increase.

Mr. Reid: This money goes to the federal government which hands it out on treaty day, as I recall.

Dr. Reynolds: If you would like some further explanation as to why we are dealing in effect only with Treaty 9 and not the other treaties and that sort of thing, since at least I need to know this for my own education, I would be pleased to pass it on to you.

Mr. Reid: I would appreciate that. I would like to just ask the minister one other question. We touched on it the other night in regard to wild rice. Do I understand that the government's policy is that this is not necessarily a traditional right of the Indians to the wild rice but that it is a more or less stated policy that the Indians have first access to

that rice? I have a number of constituents who for their own use and for resale would like to be in the wild rice business. We see every year a lot of the rice not being picked for whatever reasons and going to waste. The ministry over the years has made it rather difficult for anyone other than Indians to have access to that rice.

Is it not possible that the areas that the Indians have traditionally picked be set aside for them, but that other areas that are not being picked, in fact, be allowed to be given out by licence to the rest of the population in the area for their own private picking or even if they want to retail it? You follow a policy in that regard with your commercial fishing. If the bands do not use the licence, then they are liable to lose the licence for not harvesting the crop. There are many people who would like for their own enjoyment and as a business venture to get into this business. Can you tell us exactly what the policy is and in which direction you are heading?

Hon. Mr. Bernier: If I may just elaborate further because this is an area that is of real interest to both the member for Rainy River and myself, being directly involved in representing an area that supports a very large wild rice harvest and crop, we have taken the attitude, not by right, but by, I suppose, a moral commitment or maybe by negotiation or just by policy within the ministry that those traditional harvesting areas would be set aside for the treaty Indians in that area. There is some criticism of that, as you correctly point out—a great deal of criticism from your particular area.

We have also made it available to other areas supporting wild rice that have not been harvested in the past by native people. An individual can get a land use permit for such an area, providing the local office feels that it is not part of the traditional harvesting areas of that particular band. Licences have been given out on those terms.

In addition to that, if an individual has selected a lake and from his own investigation has decided it will support the cultivation of wild rice, then all things being fair and equal, and if it complies with such things as The Navigable Waters Act, if there is no problem with control of water levels in a number of areas, be it related to parks or park reserves, then a land use permit is given to that particular individual. Those are starting to move ahead in northwestern Ontario.

I think it is fair to say that there is a group, I think from Lester Falls, that approached me most strenuously. They indicated to me in no uncertain terms that they

feel we are discriminating with the resources that belong to all the people in the province of Ontario, by pointing out and selectively giving it to one group. I indicated to them that maybe they should challenge the department's policy in that field. I believe one replied that he may even take it to the Ombudsman and have him look into all aspects of it and see if we are discriminating against certain groups. Many of the people in that area are Métis or are disenfranchised treaty Indians living the same way as our native people, but they do not have the right to harvest the rice under the present policy.

So I think we are going to hear more from that particular group as we go down the road. We are prepared to talk to them about it—look at it. But until this is clarified, we intend to stick with that policy until we are proved wrong of protecting the natural harvesting areas of our native peoples who are treaty Indians. Of course, for a dollar licence, you can now obtain permission from the district office to go and pick 50 pounds for your own use. This is being done on a much broader scale now that the public is becoming aware of it, providing you keep out of the traditional licensed areas.

Mr. Reid: I am sure the minister would feel the same way as I about another point, because this is traditional to everyone who lives in northern Ontario. I wonder if the ministry would not send a letter to the federal government, particularly to the Minister of Immigration, to disallow people from the United States to come in and pick the wild rice, whether they be native people or otherwise. There was a case last fall where there were three, I believe, who came from Minnesota to do the picking for one of the Indian bands. It seems to me that that is a resource that should be made available to the people who live in the area first, rather than allowing others to come in and take advantage of it.

Hon. Mr. Bernier: I might just elaborate further on that. The licences or land use permits are given to Ontario residents only. Also, we have indicated that we would like the processing plants in Ontario to have the first right of refusal of that rice. We are trying to encourage more processing plants. We have one in Keewatin now but much of our green rice is being harvested here and is being sent to Manitoba and to Minnesota for processing, thereby taking employment out of this province. We think that if the processing plant were here in the province of Ontario, it would add further to the employ-

ment opportunities that could come from the wild rice harvest.

So we are looking at, and we are establishing, a policy of Ontario residents for licences and the first right of refusal for Ontario processing plants.

[12:15]

We hope to have more people more involved in the wild rice business because this year, as I said earlier, we harvested about \$1 million worth of wild rice when we could have harvested anywhere from \$8 million to \$10 million. Wild rice in this period of time has a very high food value. One cup has, I think, 800 calories. Is that right?

Mr. Cunningham: If you're looking at me, you're looking at the wrong guy.

Hon. Mr. Bernier: If you want to watch your diet, I don't encourage you to eat wild rice.

Mr. Reid: With the price, we can't afford to eat that much.

Hon. Mr. Bernier: It is very high in food value; it certainly has a gourmet touch to it that's catching on right across Canada and North America. In fact, as I indicated, in my studies and reviews of the situation the potential for wild rice is just unlimited. We haven't even touched the American market and we haven't scratched or even moved into the European market. I am sure once they become aware of it, if we had the product harvested, the proper process and merchandising—and this is the key behind the whole issue—we have a great future for us with regard to wild rice in this province.

Mr. Vice-Chairman: I might point out that the minister has to leave at 12:40 so we will adjourn at 12:50.

Hon. Mr. Bernier: If I could get away at 12:50—I have an aircraft to catch.

Mr. Reid: I have to leave at 12:40 or 12:30, for that matter.

Mr. Vice-Chairman: All those in favour of 12:30? Fine.

Dr. Reynolds: Excuse me, may I interrupt for just one second because it is an item in connection with Mr. Reid's previous question? Our executive director of finance and administration has some additional data now on the map question which you raised. I think if the committee would agree, I think that could be tidied up now rather handily.

Mr. Spry: As far as we were aware we were selling all our maps through government outlets, mainly through our own offices. I don't know whether there is some confusion with the federal government selling maps to agencies or not but I would expect that's the case. As far as prices are concerned, the prices of maps produced by our people have not been increased in the past year. However, we do secure some maps from the federal government. They have increased their prices to us and we have reflected that in the prices of the maps that we sell which are produced by the federal government. We will search further but we don't believe any of our maps are sold by agents, not as far as we know.

Mr. Reid: I asked that question myself, Mr. Spry, and he assured me that some of them were from the provincial Ministry of Natural Resources. Now maybe he is mistaken and not our man.

Mr. Spry: I would like to follow up on it if you could let me have the name of the agent.

Dr. Reynolds: There is one possibility, Mr. Reid, and that is that sometimes people as a matter of convenience to their customers go out and buy a large number of the maps for resale to tourists, for example. If they are in a large complex area, they might like to have them for the convenience of those people. I wonder if that might be it.

Mr. Reid: No, I don't think so, Dr. Reynolds, because he talks specifically about the commission being cut. It may well be, Mr. Spry, that he was confused and in fact it is federal maps he is talking about. I will check with him.

Mr. G. I. Miller: I have a question for the minister. Are hunting camps under your control?

Hon. Mr. Bernier: Yes.

Mr. G. I. Miller: Are there any available at the present time if somebody was interested?

Hon. Mr. Bernier: Yes. It is usually arranged through the district office. If an individual has a desire to go into a specific area I would encourage him to get in touch with the district office because there are certain zoning regulations, certain park reserves that have been established and wild river park reserves. A number of programmes could affect a site selection, but we do give land

use permits for hunting camps in northern Ontario.

Mr. G. I. Miller: In the Parry Sound area who would be in charge?

Hon. Mr. Bernier: The district office at Parry Sound.

Mr. G. I. Miller: Right at Parry Sound?

Hon. Mr. Bernier: Right at Parry Sound, yes. It's not handled at the head office at all; it's handled in the districts.

Mr. Cunningham: I'm just wondering if this is the appropriate time. I'd like some information on this Onakawana project. Would it be germane to discuss that now?

Hon. Mr. Bernier: Sure, I think we can discuss it here. It may be in resources products. On mineral management we might have

our staff here to answer all the questions if you have any, because that's where it should—

Mr. Cunningham: I'll defer till then.

Hon. Mr. Bernier: It will probably be discussed in resource products.

Item 7 agreed to.

Mr. Vice-Chairman: Do you want to start into conservation authorities?

Mr. Cunningham: I think we may as well hold off.

Hon. Mr. Bernier: Start Monday?

Mr. Vice-Chairman: Leave it until Monday? We will adjourn until Monday after question period.

The committee adjourned at 12:20 p.m.

CONTENTS

Friday, October 29, 1976

Outdoor recreation programme	S-2421
St. Lawrence Parks Commission	S-2421
Land management programme	S-2430
Land, water and mineral title administration	S-2430
Adjournment	S-2434

SPEAKERS IN THIS ISSUE

Bernier, Hon. L.; Minister of Natural Resources (Kenora PC)

Cunningham, E. (Wentworth North L)

Drea, F. (Scarborough Centre PC)

Ferrier, W. (Cochrane South NDP)

Godfrey, C. (Durham West NDP)

Johnson, J.; Vice-Chairman (Wellington-Dufferin-Peel PC)

Makarchuk, M. (Brantford NDP)

Miller, G. I. (Haldimand-Norfolk L)

Reid, T. P. (Rainy River L)

Rollins, C. T. (Hastings-Peterborough PC)

Williams, J. (Orillia PC)

Yakabuski, P. J. (Renfrew South PC)

Ministry of Natural Resources officials taking part:

Churchill, M. J., Supervisor, Budget Section, Financial Management Branch

Reynolds, Dr. J. K., Deputy Minister

Sloan, J. R., General Manager, St. Lawrence Parks Commission

Spry, G. D., Executive Director, Finance and Administration Division



Government
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Legislature of Ontario Debates

SUPPLY COMMITTEE—2

ESTIMATES, MINISTRY OF
THE ATTORNEY GENERAL

OFFICIAL REPORT — DAILY EDITION

Third Session of the 30th Parliament

Friday, October 29, 1976

Speaker: Honourable Russell Daniel Rowe

Clerk: Roderick Lewis, QC

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CONTENTS

A list of the speakers taking part in the debates in this issue of Hansard appears, in alphabetical order, at the back of this issue.

Daily contents of proceedings also appears at the back of this issue. Reference to a cumulative index of previous issues can be obtained by calling the Hansard Reporting Service indexing staff. (Phone 965-2159)

LEGISLATURE OF ONTARIO

SUPPLY COMMITTEE

FRIDAY, OCTOBER 29, 1976

The committee met at 11:20 a.m.

ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL (continued)

Mr. Lawlor: First of all, perhaps, as Mr. Roy said to me in the corridor, we fore-shortened a little too much the last vote with respect to royal commissions. I am not going back on it now. I just wanted to say with respect to the LaMarsh one, we could spend a good deal of time on it. We could flagellate and go around and do a dervish dance over the damn thing. Really, it is not going to change the position. It is a monumental waste of money. I am sorry it happened and that is all I am going to say. On to Legal Aid.

Mr. Roy: I just want to second that.

Mr. Lawlor: So you won't be left out.

Hon. Mr. McMurtry: This is a matter, of course, which is a decision of the government as a whole as opposed to a decision of ministry. I support the decision of the government and I predict that you gentlemen, when the final report is received, at least in your heart of hearts, will feel that your statements were wrong and that the expenditure was well justified.

Mr. Roy: You sound like Jimmy Carter when you talk about conscience.

Mr. Lawlor: More like Barry Goldwater. There is a famous story about him of course. He said "You know in your hearts that I am right," which you guys always suspected; and then the sign, the great balloon, went up over the stadium in California and said, "You know in your guts that he's nuts."

Mr. Vice-Chairman: Those are pearls of wisdom.

On vote 1902, administrative services; item 1, programme administration.

Mr. Lawlor: On Legal Aid, I am not going to say all I have to say; I would take too

long a time. Other members want to get in from all sides. I will say a few things.

This year it is going to be a fairly prolonged debate, I suspect, because, No. 1 there is some rumour abroad, which I hope to scotch in no uncertain terms, that the Attorney General of Ontario is looking hard at Legal Aid—not only hard but askance—and that behind his velvet glove is the iron fist of wiping the whole thing out. This, right or wrong, is what these estimates are about.

I don't go on this particular issue in the sense of beggary. I don't say I beg you not to do that thing and I beg you not to use these veiled threats, which aren't so veiled at all, to the Law Society and others; such as: "If you don't come to heel, by George, you won't have it at all. We find it an onerous burden." Certain elements in the middle class and upper middle class find it onerous and object as they do on all things to helping the more needy members of society. This pervasive class thing does tend to get to a Conservative ministry.

I quote from the communique of the Law Society of February 20, this year: "The 37 benchers present in convocation today heard a preliminary report from the chairman of the Legal Aid committee on the speech given in Windsor recently by the Hon. Roy McMurtry. Referring to the mounting cost of Legal Aid resulting from increased use of it by the public, I don't know who else would be using it the Attorney General has said—"

Hon. Mr. McMurtry: Not my words.

Mr. Lawlor: To continue: "that such open-ended programmes in government were just about over. He referred to abuses to the plan and spoke of scepticism about the overall value of Legal Aid."

Well, lawyers are fairly circumspect guys—and particularly law societies. This is the impression they received. This impression wouldn't have been easily received.

Mr. Chairman, and Mr. Attorney General, is this necessary at this stage in the evolution of Legal Aid and is this necessary in

the light of the history of the legal profession throughout the world? One central theme that has always been brought against our profession is that it has a twofold standard—one for the well-to-do who could afford to pay, the other for the vast mass of people. Justice, of all things, was supposed to be in the position of equality, or tending towards, constantly trying to achieve, a condition of equality that everyone was treated according to his merits and deserts, and that the monetary factor wasn't to be the deciding one with respect to that appearance where we are all equal before the courts, rich and poor alike.

In order to obviate that, to move the whole society forward into a state where this kind of rancour was no longer evident and because the system was so faulty in this regard and so invidious over the centuries, previous Attorneys General in a more enlightened age decided they were going to do something about—however halting, however, faltering, however subject to abuse it may be, we were going to do something about that. In all sides of the House we gave great praise and credence to the then Attorney General for having the humanity and the breadth of vision to move into the area.

Now there seems to be some hanging back, some hesitation, some feeling that it was all perhaps a mistake. It's not a mistake. The amount being allocated to Legal Aid is minuscule over against the total budget of the province. The benefits it confers upon—the figures are a quarter of a million people since the thing was in its inception—are just way out of proportion to the amount expended.

Restraints or no restraints, restraints cannot be made a *bolas* with which to hamper—not just hamper but to throw back an area in human development. This is a specialized area. The ministry of Justice is not a ministry subject to the same kind of snags and the same kind of restrictions that is an imposition on other ministries. There is by way of constitutional law a certain freedom and ambit within this ministry, that it is somehow outside and above the fray where the justice aspect comes in, in an impartial way helping all citizens where these needs are evident. You can't go *holus-bolus*, the things evolve slowly.

I would say this much, that if you were spending out of your own pocket—apart from the Law Foundation funds coming from trust moneys of lawyers, which is a very considerable sum now; it is getting up to the \$5

million mark. In future years that will probably increase—this fiscal year I suspect to the region of \$6 million to \$7 million. If that three per cent bank thing were increased to say five or six per cent, you would double that.

There are substantial sums to be derived. I take some exception to the allocation by the Law Society of portions of that to the local law libraries. I think all that money should go into that particular area, Legal Aid, in face of the crying need and in face of the cutbacks and in face of the acrimony being generated between the Law Society and the Attorney General's office at this time over this whole programme. It's lamentable that it should take place.

[11:30]

Apart from that money, and apart from the very substantial sums that you derive from the federal government on the criminal aspect of the thing—again \$5 million—if your budget went up to something in the region of \$23 million to \$25 million, that would adequately cover all aspects and all needs and be able to expand the clinic concept. That's not asking for the moon and it is not an exorbitant amount for the services rendered; rather than to simply dig in your heels at some arbitrary figure of \$18 million or thereabouts and say that this is an end-of-the-road kind of thing because of the mounting costs.

There is another factor here that you must take into consideration. Perhaps, just perhaps, for the first time, the report of the Law Society of September 9, 1976, mentions on the first page—rather this is a letter received by Jim Renwick from the Law Society on this—at the bottom of the first page they give the statistics for the two months ended May 31, and they say: "While it is too early in the fiscal year to predict any trends, it is perhaps significant that for the first time since 1970 reported activity shows a decline."

You may not be able to rely on that, but it is heartening; at this stage it just may begin to level off. There is a point where it will level off. It couldn't possibly mount at the percentage ratios that it has in the last few years—in some areas it was 100 per cent. But the need was there. You tapped that need—and the oil well exploded and came up in a geyser. Now the geyser is levelling off. This is a heartening sign from the point of view of government financing. Maybe it would be better not to take as adamant a stand but to watch it carefully. Then if the need fundamentally is being met, and if the

number of certificates and applications for advice and appearances only mounts at a ratio of three, four or five per cent annum at the very most—let's say three per cent—then basically our problems may be substantially solved.

I have to ask you the question whether you have any reason to believe that this is the case or whether the belief internally in your own department is that there are going to be very considerable and monumental continuing increases. Is that what your position is predicated upon? If so, is it based simply on a projection of previous years? I think you have to agree with me that would be a mistake, simply because of what I said; namely, that the need was felt. It wasn't widely advertised at the beginning, but it has become fairly pervasively known throughout the widest population, with the constituency clinics of the members of this House referring many cases to the Legal Aid office.

My contention is that the demand is not exorbitant. The calls upon you are not out of shape or too heavy; they have reached the level now where the plan, as far as money is concerned, may be more closely scrutinized. As for the amount of money spent—I believe the average cost per case is about \$150 or something like that for the services rendered—it's very small for what has taken place and the alleviation that has resulted in this particular area. Can there be anything worse? Well, I suppose facing death and facing jail; some people prefer to face death in the situation.

There is no area that I can discover where there is any concerted move to cut back. We can discuss nice points, but what I'm talking about is something like the whole area of duty counsel. When I talk with lawyers' groups about that possibility, their attitude is, "No, that is the most valuable part of the system." Recently in York county, under the impress of these restrictions, six men were appointed at the old City Hall on a permanent full-time basis to act as duty counsel, excluding the wide number of the profession who formerly attended upon that chore.

This is a suspect step, maybe even a retrograde one. In other words the Law Society is running counter to its own enunciated principles of maintaining as wide a dispersion of the private bar as possible in the operation of this scheme, and giving the greatest theoretical independence of advice to the person in trouble. It has always rigidly maintained a position against the public defender system.

It is the public defender system that is the ghost in the closet in this whole thing. Everybody fears it. Perhaps the Attorney General doesn't fear it as much as others. He can see it certainly operating a damn sight cheaper than the present Legal Aid system. I have no doubt that it can be done that way.

The little that any of us know or as much as we know about the operation of that scheme in the American States is to be profoundly suspicious of its operation and, as far as I am concerned, opposed. It's another governmental bureaucracy which works hand in glove with the Crown attorneys, trading off, trading notes and going to breakfast together. That's not what we need in the defence of human liberties and in the defence of accused persons and that should be thoroughly resisted. So what have you got left if you abolish the scheme? You have nothing.

The Law Society, under impress because the Attorney General has dug in his heels and he's told them flatly as is indicated, have been forced against their own best thinking to set up the first edge of the wedge with the public defender system at the City Hall in Toronto. I wonder how the government regards that and how the Attorney General and his deputy look upon that new phenomenon. Do they clap their hands and say "welcome" because it's saving us a few bucks? Or do they feel like I do that it's a regrettable, to say the least, step that had to be taken in this particular context?

Hon. Mr. McMurtry: I hesitate to interject but I'm so bursting with enthusiasm at such a rousing defence for the fee-for-service principle by a member of the New Democratic Party that I just couldn't contain myself a moment longer.

Mr. Lawlor: Well, do contain yourself, because I have a little more to say. As a matter of fact my next sentence was: The emphasis will increasingly, in the evolution of this plan, go to clinics and in the clinic concept a lawyer will be a full-time, full-paid salaried lawyer. This is the only way to run it.

That doesn't mean the abnegation of the private bar. Parkdale doesn't attempt to handle serious criminal cases. It sends those cases out. There's an enormously wide range of advice services—drawing documents, helping people in landlord and tenant situations and all the administrative tribunal part—which they are excellent in dealing with—and the small claims courts. But in matters of greater seriousness, what you have to do is begin to draw closer perimeters for the Law

Society. You have to draw closer perimeters as to who will handle that, and more and more of a certain area of legal advice and work would be hived off to the clinics. The clinics would be encouraged and that would relieve the private bar of a great deal in an area in which they are not particularly interested because the fees are too small and because of which the cost is exorbitant.

Running contrary to my party policy, I'll say as the critic, flatly—and I don't care about the flak—that I am opposed to taking it out of the hands of the Law Society. We can move toward that, perhaps, as time goes on. If there was a charge for the contribution made by the members of that society in area committees, in the administration of the plan—now done without fee—there would be a serious increase in the pure administrative cost which is already 18 per cent of the total funds allocated. There would be a substantial increase in the costs of running the plan which would then place the plan in jeopardy with any of us. Because of this voluntary service now there is among the young lawyers the feeling that the senior bar has slackened off; that they don't take the cases, because there's such an inundation of young law students coming through. That's a shame if they wish to retain, as they do, the governance of this particular thing. It's not just a prestige thing; I think that they are socially committed in this regard and that these men, in conscience, wish to have this scheme run well. It is not a ripoff scheme for the lawyers; nor do I think, by and large, the general public sees it as such.

If you ask the lawyers who participated, particularly on the block fee basis, they say that you get \$185 for handling a case upon general sessions of the peace and that, adjournments or no adjournments, whatever it may be, there is a certain allocated fee for handling certain matters at the provincial court level; that this fee is thoroughly inadequate; that it acts as a brake upon the really professional counsel taking this kind of case. The complaint I'm hearing is that, on the amount of money being allocated at the present, they can't in all conscience prepare the case adequately and give it the time and attention that a case should deserve.

Many of them, in this particular context, will say either "I take it and I go in and plead guilty"—and we'll come back to that in a moment—or "I just can't bring myself to take something that I'm not going to do well, and I won't participate." Those fee schedules have to be given a greater flexibility, which costs more, not less, money in a wide number of cases, just to attract and

keep them legitimately—and not because they are ripping anything off, but because they want a fair day's pay for the work involved.

What's happening, I'm told—and this really screws one all up when you think of it—is that young lawyers find that the most profitable way in which to handle cases is to get a number of cases. If they could get four cases coming before a provincial court judge on a Friday morning and plead every one of those cases guilty, they could walk away with \$400 or \$500 in their pocket and be away ahead. Don't tell me that the work that goes into preparing for a plea of guilty is commensurate with the work for pleading not guilty. I've heard that argument, that if you really pleaded guilty well it would be a lot of work. You get his name, his age and his previous history; and if you can get in for three and a half minutes with a provincial court judge to tell him about these things, then the job is well and truly done. This is a viciousness, an unscrupulousness that is going on and is fairly widespread; the pleas of guilty are beginning to mount. All kinds of other things are operative here too.

On that, I don't know what you can do about it. I think what has to be done is that the provincial court judge and the judge in assizes, the Supreme Court judge, have to be prepared to report lawyers constantly appearing before them, the same lawyers pleading their clients guilty time after time. These fellows have to be detected and weeded out, and I don't know who else but the judiciary can do it. I suppose the Legal Aid, by watching particular lawyers very closely, could see the number of times they pleaded guilty rather than the other way; and if there's a pattern there, then at least it should be looked into. There are good, legitimate reasons for pleading guilty.

Mr. Singer: What's the sin, pleading guilty or getting paid too much for pleading guilty?

Mr. Lawlor: That's what I'm saying. I'm saying this is the way to clean up on the scheme. It's far better for a lawyer to plead his client guilty than not to, because you make more money that way.

Mr. Stong: Doesn't do his reputation much good, though.

Mr. Lawlor: Who knows? There are legitimate grounds for pleading somebody guilty; and you're just as good a lawyer for doing it—maybe a better lawyer for having the sense to do it—than you are for not doing it. It's very difficult. Anyhow, it's being done and it's being done on a wide scale.

I'm not going to start going through my list of subjects, but I'll give you one or two. The police are to blame on the business of laying conspiracy charges. Ted White, who has been recently appointed as a provincial court judge and was administrator of the scheme, his chief complaint against it was the abundance of conspiracy charges. Ted would say to you, "If four young guys are found in a stolen car, the police, instead of trying to segregate it, lay charges against all four with four sets of legal aid lawyers, four sets of hearings, adjournments galore, because one or the other can't show, the whole mess. That's going to have to be moved in on in a very deliberate way.

[11:45]

The police lay multiple charges and then we get into plea bargaining. We're into an area of the estimates now where everything is everything else. You can lead from one to the other. It's all tied together from here in.

The police lay multiple charges deliberately because they know there's going to be what they call plea bargaining with the Crown so the charge will be cut down. It also lends the Crown attorney a weapon with which to bargain for that plea of guilty. The whole system turns back upon itself. What happens is that Legal Aid's the goat. Legal Aid's the culprit in the situation.

I wanted to refer you to an article by Jerome Carlin and Jan Howard called *Legal Representation and Class Justice*, from the *UCLA Law Review*.

"Half a century ago Reginald Heber Smith delivered the following indictment of our legal system. 'The administration of justice is not impartial. The rich and the poor do not stand on an equality before the law. The traditional methods of providing justice are operated to close the doors of the courts to the poor and has caused a gross denial of justice in all parts of the country to millions of persons.'"

We've got to rectify that so that may no longer be said. Don't go back on it. Give Legal Aid a fairly wide ambit. Treat it generously. It is not fundamentally being ripped off.

The administrative processes through which it is going should be looked at carefully. I think too large a part of the Legal Aid dollar is going into the administrative chore. That should be looked at. I don't think government services have the same percentage with respect to the administrative side of it as they do with respect to the expenditure of funds. That should be looked at.

Don't get the backs of the lawyers up in this regard. I would say if that Legal Aid scheme were taken out of the hands of the Law Society at this stage in history the participation in the chagrin, the sense of resentment in the profession, would be fairly deep and widespread and you would no longer get the co-operation.

Lots of lawyers, most lawyers, lots of them whom I know, participate in the scheme because of a sense of responsibility. If that sense of responsibility is removed by having the thing placed up in a so-called neutral corporation, that would dissipate and the ethics of the relationship would vanish.

Sure, you'd get a fair number, again, of callow, inexperienced young lawyers coming out. I understand some lawyers now live on Legal Aid. There's supposed to be some kind of limited number of certificates going to any one but I understand that the list of the 10 largest sweepstake holders, the 10 largest garnerers of funds, is being published shortly. There was a lawyer in Windsor, etc., who won the sweepstakes—maybe I'd better not be too invidious.

Maybe I should take the edge out of my voice and simply say that that's not being adhered to. These lawyers are the ones who plead clients guilty, too. Really, it's a suspect situation. It has to be widely spread.

The members of the criminal bar association say that the quality of that bar is being depressed very considerably because every mortgaged lawyer, as they would express it, who has a day off or, because of the depressed real estate market, needs the \$75 for that particular day, gets on the roster and doesn't really know what he's doing.

These are a few remarks. I have many more with respect to this Legal Aid scheme. I'm really pressing on this for support of that scheme, for support of clinics, and to carry out basic Osler report recommendations, and while he was vague and even equivocal on some issues during the thing, I think the general tenor and direction of that report is clear.

I think there is a certain resistance within the Law Society, whatever they may say for public consumption, to initiating or to implementing that scheme in the fullest way possible. They are suspicious of clinics. On the other hand, they have very good arguments these days in which you are assisting them mightily; don't give them that assistance. Give that scheme some ambit. It is a beautiful child and its hair should be combed.

Hon. Mr. McMurtry: Mr. Chairman, I would like at this time, if I might, to respond to Mr. Lawlor's remarks. I should say at the outset that I share many if not most of the sentiments of Mr. Lawlor and I think that the activities of the ministry during my tenure would indicate that my staff, in their efforts, share to a very fundamental extent most of the philosophy that he espouses.

I personally find it of great interest to hear Mr. Lawlor's views in relation to the Osler task force report. I might say that having his views on the record—and I put that in a nice sense so there can be no misunderstanding—is of some assistance to the Attorney General because I happen to share his views personally that the fundamental and most basic recommendation of the Osler report—namely, the taking away of the administration of the plan from the Law Society and handing it over to a public corporation—might well lead to a widespread disenchantment among the legal profession and a lack of participation by many of the fine lawyers who can make a contribution.

I want to state that I think Mr. Lawlor's statement in that respect is an important statement and will be of some real assistance to me.

If I may deal with some of my own views and some of the things I've said, quite apart from what somebody in the Law Society may have stated has been said by me, I would like to clarify some of these issues.

Firstly, Mr. Lawlor, I will try to get you a copy of my speech to the bar association in Windsor because I think it sets out a little more clearly than that Law Society communique what my sentiments actually were on that occasion. I can tell you that when I came into the ministry, there were some obvious challenges facing me and the Legal Aid plan. Firstly, there were the recommendations of the Osler task force, the most fundamental recommendation being the transfer of the administration and operation of the plan to which I have already referred. Secondly, there was the recommendation of the Henderson review committee with respect to government expenditure, which received some considerable support—

Interjection.

Hon. Mr. McMurtry: —which received some considerable support in the community in relation to the open-endedness of government programmes and the recommendations to eliminate open-ended programmes. As has already been mentioned during these

estimates, this was one issue which those in the task force did not deal with.

Quite apart from the cost of the plan, there was a credibility issue in the minds of the public. I can tell you that the sentiments of the public in this respect have been reflected to some extent at least by members of the House in conversations with me—and I state members of the House from all three political parties. They expressed sentiments to the effect that indicated some degree of scepticism as to whether or not the Legal Aid plan wasn't first and foremost a make-work plan for lawyers. It's a sentiment I don't happen to agree with, but a sentiment that has been expressed, as I say, on all three sides of this House and in the public generally. Concerns were expressed as to whether or not the public is really getting the best value for the dollar in relation to the expenditures.

I should make it clear, and I would like to go back a step if I may, and state that I personally support very strongly the concept of the present Legal Aid plan. So does my ministry and so, I believe, does the government, although there are concerns, of course, with respect to expenditures in a time of government restraints. We are dealing also with an issue of public credibility and in my view, in order to maintain or increase the credibility of the plan in the eyes of the public, I felt that I had a certain responsibility to deliver a certain message to the legal profession.

Having been part of the practice of law, both as an articulated student and as a lawyer for 20 years and having come from a legal family, I think I have a reasonable ability to judge the mood of the legal profession from time to time. Usually it's one of complacency. Usually, to a large extent, it's one that the public recognizes, automatically recognizes, the value of the legal profession and, as a result, there is a certain amount of burying of one's head in the sand with respect to the overall public acceptance of what lawyers do.

In some of your remarks you have indicated, as I do, that the public aren't as satisfied as many of our legal colleagues would like to believe. So from time to time I do deliver a message of one kind or another to the profession with respect to some of these challenges in order to assist them in coming to grips with them and not simply burying their heads in the sand.

That was certainly one of my purposes in delivering the type of speech that I gave at Windsor. It was not a speech to criticize

the concept of the plan or one that would not indicate quite a lot of support for the plan. I indicated that any abuse of the plan, in my view, was of a very limited nature in relation to the financial impact on the plan, the direct financial impact on the plan. Unfortunately, these matters are often blown out of proportion in the eyes of the public, particularly when certain scoundrels—and I use the public description, not my own—have a trial that lasts months and months and costs many hundreds of thousands of dollars—costs the public many thousands of dollars—and the reaction of the public is not always positive in those circumstances.

I should also state that there is a high degree of scepticism in the minds of perhaps even the majority of our judges with respect to the value and the worth of the Legal Aid plan. I hear this almost weekly from judges of all courts. They personally feel, many of them—I believe a majority—that the plan is being abused and, of course, they are not without some influence in the community.

Quite apart from the direct expense of the plan, which I don't really quarrel with, there is a further consideration which is of concern to the public and the judiciary and that is the impact of the plan in relation to the courts generally. There is a view in some quarters that not only is it expensive from the standpoint of actual payment of fees to lawyers on Legal Aid but trials are unnecessarily extended because of the Legal Aid plan. It is felt that trials which might be conducted or finished within three or four days by competent counsel on both sides sometimes stretch into weeks because of counsel who are anxious to derive a maximum amount of benefits that are available from the Legal Aid plan. That is the perception in judicial quarters. That is the perception in the minds of many of the public.

[12:00]

It's this type of challenge or this type of perception the Attorney General of this province has come to grips with firstly in maintaining the credibility of the plan in the eyes of the public generally; and secondly, the most effective utilization of our courts. Obviously, if there are abuses, if trials are being unnecessarily extended and cases are fought out when the client's interest could be best served by an effective plea on sentence in relation to a plea of guilty then, quite apart from whether or not the client's interests are best served, obviously the public's interests are not well served with the

backlog which we face with this unnecessary time taken up in the courts.

These are the challenges which any Attorney General at this point in time has to come to grips with. Mr. Lawlor, with the greatest respect to you, because I do believe that we probably agree on many more things in this area than we disagree on, I want to indicate to you that there is a responsibility on any Attorney General at this time to do what he or she can to persuade the legal profession to come to grips with these challenges and not, by reason of their preoccupation with their clients' interest from day to day, overlook them. Having practised for many years in this community, I can understand that and I was probably guilty of it myself—of being preoccupied to such an extent with my own clients' problems that you lose total sight of the overall picture and the integrity of the system generally.

If it means ruffling a few feathers in the legal profession in order to come to grips with these problems, so be it. In my view, that's part of my role. I think as a result of doing this there has been a much greater indication on the part of many of the responsible members of the legal profession in recent months to come to grips with these problems. There's been certainly a much more determined effort to eliminate the abuses of the plan and to avoid unnecessarily long trials which might be related to the plan and the abuse of the plan.

Arising out of these discussions, for example, has been the matter of the permanent duty counsel. One of my concerns that led to encouraging the Legal Aid plan to establish a permanent duty counsel office in the judicial district of York was—

Mr. Lawlor: As a pilot project.

Hon. Mr. McMurtry: As a pilot project—my view that the interests of the accused were not being best served by the present plan, quite apart from any consideration in relation to expenditure. You yourself touched on that a moment ago when you talked about the mortgage lawyer who, from time to time, would like to view himself as a defender by volunteering or placing himself on the duty counsel roster. There's a certain element of truth in this because the experience in the courts has been to some extent that many duty counsel just simply don't know what they're doing, to put it in very blunt terms.

Mr. Singer: Even some of those who are members of the criminal bar.

Hon. Mr. McMurtry. That's right. As a result, the accused simply are not being well represented because they're just not getting the best advice. This leads also to unnecessary delays in the court—only as a secondary consideration, the first consideration being getting the accused person the best advice where reasonably available. Other considerations are unnecessary delays caused by inexperienced counsel and, of course, unnecessary expense. It was my concern in relation to accused persons being well represented that led me to support and urge this to be considered, because it solved two problems or had the potential to solve two problems. The first would mean adequate representation, and second, a better value for the taxpayer's dollar because it's our hope that the duty counsel office, the permanent duty counsel in Toronto, will be made up of experienced counsel who will be able to, as I say, provide more adequate representation, and an offshoot of that, of course, hopefully, will be a better use of our courts.

We talk about the public defender system and the fee-for-service system as opposed to the clinical delivery system. I know you are well familiar with the Osler task force and I think you will therefore recall that Osler strongly recommends that we arrive at the best blend of the two; that there was a vote for fee-for-service and that there was obviously an important role for the clinical delivery of legal services.

Mr. Lawlor: We are nowhere close to that.

Hon. Mr. McMurtry: We are trying to arrive at the best blend. You say we are nowhere close to it, but I tell you we are a lot closer to it now than we were a year ago, and you know that when you came to me, as you mentioned earlier, almost weekly, expressing your very legitimate and valid concerns in relation to the Parkdale Legal Aid Clinic that your voice did not fall on barren ground. I was totally supportive and my ministry was totally supportive of the Parkdale Legal Aid clinic, which had been abandoned by the federal government, and it was largely by efforts of my ministry that we were able to place the Parkdale Legal Aid Clinic on some sort of reasonable, permanent funding arrangement so they would not have to worry from month to month as to whether or not they were going out of business. Mr. Campbell has also spoken about the other Legal Aid clinics as part of our approach, as part of our support as to the clinical delivery. We persuaded the Law Society, who I might say have been very

co-operative throughout, as to the wisdom of establishing a committee to determine which clinics should be properly funded and if they were properly established that they should be given some reasonable guarantee with respect to continuing funding in order that they could effectively operate. As I say, in this respect we have been attempting to carry out the spirit of Osler in relation to this part of the report and at the same time persuading the legal profession, because you also touched on this, Mr. Lawlor, as to the scepticism that many lawyers felt toward the clinical type of delivery of legal services. So part of my role as the Attorney General has been to educate our colleagues at the bar as to the legitimate and the real need for this type of delivery of legal services, and as I say, I see this as part of my role.

Mr. Callaghan advises me that there are now 13 clinics funded through the Law Society, and I don't really have the figures, but I would think that the funding that is assured now, as of this date as compared to a year ago, would show a considerable difference. Am I right in that, Mr. Campbell?

Mr. Lawlor: I hope so. Everybody was in a state of funk a year ago.

Hon. Mr. McMurtry: I think right now we have about \$1 million directed toward these Legal Aid clinics, and while the progress may not be as fast as you might hope for, Mr. Lawlor, I will tell you I think it's been quite impressive. There is one other item that I recall Mr. Lawlor bringing up and there are other matters that we will undoubtedly be discussing during the course of these estimates with respect to Legal Aid, and which I am looking forward to, but there is this one other item of the interest on the Law Foundation. I have spoken to the last two Treasurers about attempting to increase the rate of interest and have requested the directors of the Law Foundation to make every effort to increase the interest that is paid on these accounts. I gather that it is an enormous accounting problem and there are many difficulties related to that. I am not an accountant, but I have been urging them to do that because I share your views that the interest rate that is paid now certainly in my uneducated mind seems to be inordinately low, but I have been exercising considerable pressure in that respect. Thank you, Mr. Chairman.

Mr. Roy: Mr. Chairman, I just wanted to make just a few brief comments on Legal Aid. I agree with many of the things that have been said here this morning about the

plan. I think I can talk with, I shouldn't say some authority but with some knowledge of how the plan works, having taken an interest in the plan and having worked within the plan when it first started. I was just starting in practice when the plan came into force in 1966 and I have watched the plan evolve over these years. The first thing I would like to say is that we have had discussions in these estimates before in other years about, first of all, the control of the plan. I can recall a few years back, many of our colleagues on this committee having serious reservations about whether the Law Society should be controlling the plan. In fact, I can recall one time one of our colleagues who was a doctor, the member from just outside here—I don't recall his name, he has been replaced unfortunately by I think one of your colleagues, Mr. Lawlor—Dr. McIlveen. Did you replace him, in fact, Mr. Chairman?

Mr. Vice-Chairman: Yes. You are without the doctor's services and it is my fault.

Mr. Roy: He had serious reservations about the Law Society having control over the administration of the plan and I can recall he compared this with the doctors controlling OHIP. Really, one of the great advantages of keeping it within the Law Society is that they certainly were in the best position to control the lawyers. I don't think the government would have been in a position to be as tough with the lawyers as the Law Society in relation to fees, increases and performance within the plan and that was pointed out. I see no compelling reason for taking it away from the Law Society, because undoubtedly there are many people involved there, with great dedication, spending an awful lot of time, not getting paid for it, who are doing a good job under pretty difficult circumstances especially in a period of restraint, so I see no compelling reason for taking it away from the Law Society.

I am concerned, as Mr. Lawlor was, about the comments you made in Windsor about an arbitrary figure. I didn't read it. I read the comments from the Law Society in their press reports of your speech, and there seemed to have been some discussion at that time, a concern that we all have about open-ended programmes and setting some sort of an arbitrary figure.

The other thing that was of concern is that as the plan ran into difficulties some of the lawyers had to wait quite a while to get their fees. There was a period of time, I think last year, the early part of 1976 or the

fall of 1975, where, in fact, lawyers were, for all intents and purposes, delayed for some months in getting paid and I used to get calls regularly here at Queen's Park. The lawyers were saying "What's going on? We are not getting paid our fees."

I thought in that sense it was unfair. In my opinion any lawyer who has to live on Legal Aid income, and I haven't seen the latest figures of how much money lawyers are making, but I really think, considering what they're being paid, what the fees are, and considering that 25 per cent deduction, boy, I don't know how they can make any money on the Legal Aid if they're following the rules.

[12:15]

As I understand it, if you go down to court with three or four cases, if you're getting adjournments, you're only supposed to charge for one. As I understand it, if you enter a plea of guilty on one case or you handle one case in the morning, even though you might speak to two or three others you're only supposed to charge for one case. On that basis I really don't know how lawyers can make any money. In fact, there was a story in last week's paper in Ottawa where the legal profession down there are up in arms about the fees paid on Legal Aid, and it was suggested that the lowest possible figure in Ottawa for overhead in running a law practice would be somewhere around \$30 an hour.

You're not making that on many, many cases on Legal Aid if you're following the schedule. So in that sense I don't see a ripoff on the part of the profession. I find it ironic. You recall when the plan was first brought in there was a number of lawyers who were, in fact, prosecuted under the plan; and I don't think there were any convictions—I don't recall any resulting, at least.

Hon. Mr. McMurtry: There was one guy I remember; I think his defence was, more or less, insanity, wasn't it? A classmate of mine, as I recall.

Mr. Roy: As things start getting tight under the plan, and inflation has certainly caught up to the fees, you put the lawyers in a situation where anybody who is doing any criminal work is doing mostly Legal Aid. I don't know how it is in Toronto, but I clearly have the feeling in Ottawa that probably 90-95 per cent of the cases in the criminal courts are on Legal Aid.

Hon. Mr. McMurtry: I think about 84 per cent, just to support your feelings.

Mr. Roy: Yes. So it's extremely high, and I really don't see how a lawyer could make it on Legal Aid, considering what the overhead is. My concern is that if something is not done about reviewing this we're going to get into a situation where the only way to make it pay at all, or to make a go of it under the plan, will be to take three or four cases and plead guilty. There's a real incentive for that when you're being paid on Legal Aid per case and not for what you do. For instance, if it's a case where there's an election between summary conviction and indictment there's so much per case if you handle it, \$250, and if you plead guilty it's \$125. On a B and E case the maximum you can make is so much, and you keep going down the line. If the fees are not increased, I think we're going to get into a position where there's going to be a tremendous incentive, or subtle pressure there, to get lawyers to plead clients guilty.

Hon. Mr. McMurtry: I apologize for the interruption. Just as a point of clarification, I'm just looking at the Legal Aid tariff. It says a solicitor shall not be entitled to a fee for more than one adjournment before the same provincial judge obtained during the same half day. But it can be before a different judge.

You've touched on something and Mr. Lawlor touched on something that really worries me—and I don't think this sort of thing is cured by increasing the tariff necessarily—I hate to think that there are lawyers in the system who would compromise the freedom of their clients in return for a greater or lesser fee. I just hope you're wrong when you say that this will happen. I guess I may be a little old fashioned, because some of us here grew up under the old system where we did it for nothing for years. I'd hate to think that there would be any lawyers who'd be prepared to compromise their own integrity to that extent; or in effect throw their integrity out the window.

Mr. Roy: That principle, Mr. Attorney General, is extremely distasteful—to think that lawyers would do that—but it is much more subtle than that. It's a situation where—it's never a black and white situation between guilt and innocence. You get into a situation and you are sort of satisfied with the evidence or, as Mr. Lawlor has pointed out and I have pointed out on many occasions, there is overcharging on the part of the police. You get two or three charges and the Crown offers to withdraw a couple of

charges so you end up pleading guilty to one of the charges.

I am saying it is much more subtle than that. I would hate to think of a situation where a lawyer saw a blatant gap in the Crown's case and decided not to use it and to plead guilty just to make a better fee. I tell you that as the pressure builds up within the system, I still feel that there is that subtle incentive to do exactly that.

One point I wanted to make as well is that we are talking about the ripoff on the system, when I consider what's being paid out under OHIP to doctors and consider the number of visits required for a doctor to bill, let's say, \$150,000 a year, what is going on in the Legal Aid is amateurism on the part of lawyers. It really is. When you look at some of the billings of some of the doctors, you have to wonder what service is given when they are seeing 50 or 60 patients a day.

In any event, getting back to my point, because the system is this way what is happening is that lawyers with any experience in the profession unfortunately are not taking on Legal Aid cases. What is paid, for instance, on divorces is ridiculous. I suppose I could go a point further and say divorces shouldn't be in the courts, the way they are being handled now anyway.

For instance, a couple of weeks ago in Ottawa a judge came down and took on 250 divorce cases in a week; that's 50 a day. It's just rubber stamping at that point. I suppose if you were a Legal Aid lawyer and had 10 or 15 of those cases you were okay because I think you make \$200 or something per divorce. But the minute you get into the situation of a contested divorce or something and you end up settling it, you have to go back to the uncontested fee and it's really ridiculous.

It's ridiculous as well that with the adjournments—sometimes necessary adjournments—by the Crown you might spend a morning in court and get \$15 minus the 25 per cent. To me, that's ludicrous.

The other point I was concerned about in the system of Legal Aid was I really wonder, since wiretapping evidence has been brought in, how those long conspiracy trials—especially related to drug offences—how much they strain the Legal Aid plan. My God, we've had some of those cases—I've heard about them here in Toronto—which have gone on for six or nine months with a whole series of counsel. I really think, on that point, it's a combination of abuse not

only by the defence bar but there is some responsibility on the part of those Crown attorneys who are going into these conspiracy cases and throwing in all sorts of evidence, including the kitchen sink, which drags out these trials. You end up at the other end and you really wonder if the system works. I would think there have been fortunes paid to counsel on some of these conspiracy cases.

Mr. Norton: Maybe the Law Society should take a look at some of the counsels, too.

Mr. Roy: Maybe it should but I think there is some responsibility on the part of the Crown as well to be careful when getting involved in charges—

Hon. Mr. McMurtry: You realize, Mr. Roy, that most of these are federal Crown attorneys?

Mr. Roy: That's true.

Hon. Mr. McMurtry: They don't come within my jurisdiction.

Mr. Lawlor: A lot of them are—

Hon. Mr. McMurtry: Most of them are narcotics conspiracies which are handled by federal Crown attorneys. We don't think they should be, mind you. We've been urging the federal government to restore our prosecutorial role to a more complete sense with the exception of the revenue statutes and this has been an ongoing debate.

Mr. Norton: You are aware that the legal profession has a specialty developing in the area.

Mr. Roy: I've heard about it and I appreciate the fact that many of these trials involved the federal Crown attorneys, but we're going to have to really look at that because I suspect that's putting a severe drain on the plan.

We're trying to find new approaches for Legal Aid, and I tell you it's not easy. There's always that balance which you're trying to keep in giving the accused the benefit of the original principle of Legal Aid, for instance, that he's entitled to a lawyer and to be represented just like someone who's got money. Unfortunately, if we keep crimping and slicing and not increasing the fees on that, that is not going to be the case because someone who doesn't have money is going to have to be satisfied with a lawyer who'll take the case on Legal Aid. Who's going to be the lawyer taking the

case on Legal Aid? It's going to be the young lawyer who's coming out of the bar because any lawyer with experience has another type of practice and is not going to waste his time with Legal Aid.

In fact, what is happening, possibly it's not as obvious in Toronto but it's happening in other centres, is you end up having the same six or seven lawyers doing all the criminal cases anyway, all the Legal Aid work. To some degree it approaches very closely the public defender system anyway because you've got these lawyers who know the Crown attorneys and they're in court every day; they know the judges and everybody else. If you keep seeing the same faces down there—they're only doing criminal work, only Legal Aid—it approaches very much the public defender system. The only difference, I suppose is that they don't get a direct payment or salary from the government.

A lot of lawyers, a lot of Crown attorneys, a lot of judges have suggested that there's abuse, for instance, on the basis of there being too many adjournments and that's what slows up some of the process. A lot of judges have said as well—I shouldn't say a lot of judges but it has been suggested, for instance—that there should be a limitation on the number of certificates given in one particular year to certain offenders, repeat offenders. That's been a suggestion.

Hon. Mr. McMurtry: Do you support that?

Mr. Roy: I don't know. I support it to some degree but I really think there's got to be, somewhere along the way, some discretion. If that's the case, there can be abuse on the part of the police then, knowing that a fellow has gone through his second or third certificate in that year. They may think, We're going to ding this guy because he's not going to get a certificate. Or he's charged with a very serious offence and I'd hate to think that, facing a very serious offence, he could not get representation because he could not afford it. There's very little doubt in my mind that there are repeat offenders who are getting certificate after certificate and that is an abuse. I really think that it's an abuse.

The other suggestion which has been made to curtail some of the expenses under the system is to pay out more fee per case rather than say you get so much per hour or per day in court and this type of thing. We would say that on a B and E charge you're paid so much; on another case you're paid so much and so on. That could be very helpful in some cases—

Hon. Mr. McMurtry: A form of block fee?

Mr. Roy: Yes, sort of. It exists in many cases. The problem with that—and it's been pointed out by Mr. Lawlor—is you have to be careful that, again, there is not this undue pressure or incentive to have so much of a fee for pleading guilty so that people are pleading them guilty because they know it's not worthwhile. In other words, if the gap between pleading guilty and not guilty is such that there's always an incentive to plead guilty, we're going to have to be careful about that as well.

The block fee could turn out to be a ridiculous fee when you've got a case which requires a full trial, possibly a full preliminary inquiry: where the evidence is very difficult and you feel you have to go through the whole process and it is a complicated case.

Having made some of these comments, I appreciate that it's very difficult to reach a proper compromise. I know that your ministry is looking at it and that the Law Society is looking at some of these suggestions. I would hope to see some improvement without undermining the whole principle of a system which was considered, and I think still is, the best in this continent.

[12:30]

Hon. Mr. McMurtry: Thank you very much, Mr. Roy; just a very brief reply if I may, Mr. Chairman. You touched on one area that does harm credibility insofar as the plan is concerned and that is the repeat offender. I remember one lawyer friend of mine was in the office saying he had a client who had over 20 individual certificates for criminal matters in a relatively short period of time. That hurts the credibility of the overall plan. I can just say it's a very difficult area and I agree with you that it's an area which should allow or retain some discretion.

I think some improvements can be made to the plan. Quite frankly, I'd like to indicate my intention—or wish, at least—at this time, not necessarily during the estimates to discuss some possible amendments to the plan with any of my colleagues who are interested but more particularly the justice critics of the two other parties to see if we may be able to agree on some amendments which will be of assistance to the plan. Therefore, I particularly welcome some of your remarks in this area because it gives me some assistance or some guide as to whether such discussions would be worthwhile.

Mr. Stong: I'd like to make a few preliminary remarks. Having worked in the field of criminal law now for 10 years myself, I realize that since the introduction of the Legal Aid Plan criminal law is basically funded by that plan. The criminal lawyer, the person who specializes in the area of criminal law or delegates himself to that practice, is basically eking out his living from that plan. I think one of the failures of the plan is that—I personally support an increase in the fees as such. I agree with you that the plan itself is not a make-work plan. We have basic principles for defending those who are charged with criminal offences. The fault does not lie in the plan or the lawyers; the fault lies in society and the increase in crime.

These people are nonetheless deserving of a fair hearing and when you get down to the problem of the preliminary hearing, which was suggested earlier, perhaps we should look at greater areas and greater methods of pre-trial negotiation to cut down on the expense of a lengthy trial. There are new plans, in effect, being tried out by which lawyers can sit down and discuss the issues and narrow down what issues can be decided on and what evidence can be agreed upon going into a trial thereby cutting the issues and lengthy trials down.

I think that's very valuable and I don't think we can fault the plan or the lawyers for that type of expense. I think the preliminary hearing is a very important aspect for a defence counsel preparing a case because he does not have at his disposal all the facilities the law enforcers do. I'm talking about investigatory facilities. We also have to get special permission from the Legal Aid Plan to hire a private investigator or a psychiatrist if we are going to use that individual in a trial.

I think that kind of scrutiny is important. I don't think we should be allowed to do this freely. I think we should justify that expense. It just indicates the pressures which are on us as defence counsel. When we are conducting a preliminary inquiry I think it's very important, if we end up pleading guilty at a later stage, that it's because we learned we are able to show or demonstrate to the client that a case can be made out against him. Thereby, we could probably do him better service on a negotiated plea or a subsequent plea, rather than waste the court's time.

I think that when we're talking about the abuse of the plan, young lawyers cut their teeth on criminal law and they cut their

teeth on the Legal Aid Plan. I think we indicated that some of the judiciary take the attitude that the plan is being abused. I am sure you have received complaints from some of the provincial judges because of their behaviour that we complain about in court, but I think the judiciary is taking steps on its own to cut out these abuses it sees. I think the judiciary is taking a harsh view—some judges and very few, but there are some—and it has a spill-over effect from court room to court room. There are some provincial judges who do take a very harsh view toward young lawyers and wasting courts' time and have no hesitation to express their distaste for that type of behaviour and I think that spills over and we all learn from that. So a lot of the complaints you might receive about individual judges on the bench arise because they are probably exercising that function—they are trying to cut down on what they see as an abuse of the process.

There is one area that really does cause me concern. The headlines hit us this summer saying that the Legal Aid applications and the number of certificates had been cut down. I'm wondering how many lawyers, during that period of time, had refused to accept certificates. Maybe that's what the cause of the reduction was. I don't know. But as I see it there is a situation that has to be corrected and that is on certain tariff items, and I'm talking about tariff items such as impaired driving. The number of impaired driving charges on which a person has been previously convicted does have a direct bearing on the penalty that will be meted out by the court on a subsequent impaired driving conviction. It is more difficult and there is more pressure on an accused and on a defence counsel defending a third impaired driving charge than there is on a first impaired driving charge, but the tariff and the block fee does not reflect that pressure or the importance of that case, and hence the defence counsel may say to an individual who comes into his office charged with a second or subsequent offence "My fee will be X number of dollars." It will be in excess of what he could get under the block fee on the Legal Aid Plan. What happens is, that person that says nothing, he goes to the Legal Aid office and he gets a certificate and, lo and behold, the certificate comes back that he has to pay "nil" into the plan. The defence counsel or the lawyer who does the initial interviewing in the office readily knows that guy can afford the lawyer in the first place, and then the accused goes down to Legal Aid and is able to pull the wool over their eyes, and the social services, and

they come back and they don't even require that guy to pay into the plan. I think there should be some direction set out by your ministry to lawyers who are in the practice of law, some kind of a guideline whereby they could perhaps, without breaching any confidence, give some guidance to social services saying, "Look, this accused can really afford to pay a lawyer himself." If an accused comes back to me with a certificate saying he doesn't have to pay into the plan, that's an abuse of the process, and I'm wondering on how many occasions that happens, because it's happened to me on several occasions, particularly in areas of impaired driving, careless driving, summary conviction offences. These are the type of offences, it seems to me, where the Legal Aid people should be able to have some input from those of us in the field whereby more use can be made of the assessment and more use can be made of us in the field indicating to you down there that this person can really afford this fee. We know him in the community, we know he has a hidden asset, but we don't know how to tell you that without breaching a confidence. We know that person can afford a fee and he comes back with a certificate.

Hon. Mr. McMurtry: I don't want to interrupt you, Mr. Stong, but if you can think of any vehicle pursuant to which we can have a better assessment of the ability to pay or to qualify for legal aid, we'd be very happy to know that and I don't think it's privileged information.

Mr. Lawlor: Only if the lawyer tells the client that this particular information is not privileged.

Mr. Renwick: I don't like to interrupt Mr. Stong—and we can put this off to the end or we could discuss it now—but I'd like to comment on it if we are going to discuss it.

Mr. Stong: I have not really finished my comments. In setting our own fee on a private basis, we have to ascertain what this person's job is, what his responsibilities are and so on, because there are some people who cannot afford as high a fee as another individual. You have the more substantial client paying for the poorer client coming into your office, even on a private retainer basis. I don't think lawyers are prone to overcharge but those who have been in the practice of law for a fair number of years can expect a higher fee than a junior. In fact, clients expect to pay a higher fee.

Taking into account all those factors, there should be some vehicle, aside from a class letter to Walter Donkin or someone else like that saying, "I believe this client can pay." Many times the client will go down after we quoted a fee, apply for Legal Aid and come back with a certificate. The assessment has already been done and we have never been contacted. He does this on his own and in most cases that is the way it happens. If a person makes an application before us for legal aid in our office, then it is easier to say "I think this client can pay partially towards the services." That area is covered, but for the client who goes down on his own after he has found out what the private fee is going to be and then comes back with a certificate there could be a breach of ethics in that particular area.

One of the other matters that has been dealt with here is the area of representing two clients on the same charge, a co-accused—one lawyer. If he represents the co-accused he can only obtain one fee, so what is happening? He has the pressure of defending two clients whose defences may not differ, but if they're convicted their circumstances would differ and he has that much different pressure. What's happening is that a lawyer who is representing a client who has a co-accused is encouraging the co-accused to get a separate lawyer so that Legal Aid will have to pay two separate fees, one to each of two different counsels, whereas if greater leeway was given—and I'm not saying full fee—I probably think there would be a reduction in the cost to Legal Aid realized if one lawyer was permitted to bill on perhaps a different fee rate or fee schedule, if he represents two accused charged with the same offence, rather than being limited to billing on the basis of representing only one client.

Another thing is the question of adjournments. This has to be changed. Many lawyers now realize they don't get paid until the case is finished. We also want an early trial. I can give specific instances in my own riding, particularly the area of Richmond Hill, where I think that court is not being used to its fullest capacity. You can't fit a trial date in there until March now. That particular court can be used in a different way. We have criminal and highway traffic cases being heard in that court by a provincial judge. That court could almost run five days a week in criminal charges alone and we wouldn't have to wait till March 4 to get a trial date.

Hon. Mr. McMurtry: Just a point for clarification, what would you do with highway traffic cases under those circumstances?

Mr. Stong: The highway traffic had been moved to Aurora. Maybe we should introduce there a night court and maybe we should hire a hall. There are lots of halls available. That means more furniture, I realize that, but the fact of the matter is we are waiting six months and eight months for a trial date now on a criminal charge.

[12:45]

Another thing about adjournments is that a lot of times we will go to court and, as Mr. Roy indicated earlier, the fee for an adjournment is \$25 less a quarter, whether you wait there till 11:30 or 12:30 in the morning. If the adjournment is at our request, we get the fee on adjournment, but if it's a date set for trial and the adjournment is at the Crown's request we still get the \$25 less a quarter, I think that is something that should be revised, as to at whose request the adjournment is, particularly if it is on a day of trial. These things are just little bugbears in the plan but they do bother defence counsel and they do make it difficult to practise criminal law. I think that these are things that should be looked into as well.

Hon. Mr. McMurtry: Just as a brief reply, Mr. Stong, section 66 of the regulations states that where any circumstances come to the attention of a solicitor which indicates that his client may not have been entitled, or may no longer be entitled to the certificate under which the solicitor is acting, the solicitor shall forthwith report such circumstances to the area director, so I think that's an answer to whether or not there is any area of confidentiality.

Mr. Stong: The fact of the matter is he has gone through an entire assessment and he comes in with a Legal Aid certificate that's marked "nil." He doesn't have to pay anything.

Hon. Mr. McMurtry: I don't know, and perhaps there's a way, but it seems to me that if the legal profession were a little more conscientious perhaps in relation to that particular regulation a lot of the abuse could be avoided. I don't know whether it's practical or just how you would involve them at the assessment stage. Perhaps you have some suggestion, but I think that certainly, even at the post-assessment stage, lawyers, having an interest in maintaining the integrity of the plan, should behave perhaps a little more conscientiously in respect to this particular regulation.

Mr. Renwick: Perhaps I could make a suggestion, without interrupting at any length. I would not want to go to the extent to which Mr. Stong has indicated, of having each lawyer be some kind of a preliminary social assessing officer as to these clients' means and capacity, but I would certainly recommend that that particular regulation be put on the front of the certificate in some kind of type that would draw it to the attention of the profession. I think that's the point at which the solicitor has a duty and an obligation to become involved. When he gets the certificate back showing either no property, when they know damn well that there's a house in the background, or when they recognize that the fellow has the money and can pay it, then I think the obligation is on the solicitor. I don't think it's a lack of conscientiousness. I think it is a lack of awareness that that regulation exists.

Mr. Stong: What Mr. Renwick says is a good point.

Hon. Mr. McMurtry: I think it is a good point. It strikes me as a very good suggestion. I wonder, Mr. Campbell, is this not something that we could follow up?

Mr. Stong: Perhaps there could be some guidelines that are sent out to the lawyers for initially interviewing so that we know what the assessment people look at, because obviously the certificate doesn't come back indicating that the guy has said he has no property. We don't know what he told the assessor, but it does come back marked "nil" under payment.

Mr. Renwick: I would object very much, both from my own particular philosophical point of view and from a lawyer's point of view, that if I am consulted by a client to give him legal advice, that doesn't give me any right to start inquiring about his circumstances. If, during the course of the professional engagement which I am on, I find that in a sense there has been misrepresentation or fraud on the public purse or something like that, then that's a different obligation, but I would be extremely hesitant to intrude on the economic affairs of a particular client.

Hon. Mr. McMurtry: In answer to Mr. Stong, we have certain submissions with respect to my colleagues in relation to additional court space in Richmond Hill. We are well aware of the need and we are hopeful that we will be successful in that respect. Every ministry, of course, is seeking additional facilities of one kind or another, and

I guess we can't all be satisfied. But I certainly feel that we're optimists. It may be that we'll be able to get some kind of assistance for you in Richmond Hill.

Just one brief word with respect to pre-trial discussions—and I don't know if you were here, Mr. Strong, when this came up the other day, or perhaps yesterday—we've been very active in encouraging our Crown attorneys to engage in these pre-trial discussions. As you know, through our decentralization programme of the Crown's office in this area, in the judicial district of York, we hope to make this a realistic objective in the very near future, because we are moving ahead with it and fortunately we now have the funds.

It hasn't been without some struggle but we're moving in that direction. I hope that will really assist this whole process, at least in the judicial district of York. We also recognize the value of preliminary hearings, and we're not intending to encourage the federal government to remove the right of preliminary hearing. We're trying to persuade everybody, both the Crown, the attorneys and the bar, that there are alternatives to preliminary hearings. Not that the alternative is necessarily appropriate in every single case. As you know, most of our most experienced and most capable defence counsel in Toronto, quite frankly, seldom resort to or make use of the preliminary hearing.

They're usually satisfied with the information they get from the Crown attorney, and are quite prepared to accept this as an alternative. But this also, again, is tied into the pre-trial discussions with respect to disclosure, to shorten up the period of trial. I just want to point out we're not urging or supporting any activity or initiatives on the part of the federal government that would abolish the preliminary hearing.

As I said, as a matter of fact, we think that the proposals of the federal Law Reform Commission are just complicating matters, that they just would impose a very complicated structure in place of what we have now, which wouldn't assist but would really retract from what we have, from every standpoint.

We're very conscious of maintaining these fundamental rights. At the same time we do share in the concern of the Attorneys General across the country, including the federal Attorney General, that methods have to be explored to make for a more effective use of our court system.

Mr. Stong: You quoted me a regulation earlier about the responsibility of counsel to inform when he discovers that a person can pay. What brought this to light was that this happened to me on one occasion. I refused a certificate when the person to whom I had quoted a fee came in with it marked "nil." I sent it back saying, "This person can pay me himself." Two weeks later I got notification from the plan that my services were no longer needed and he was in court with another lawyer on a Legal Aid certificate. So I assumed that that thing was read and what that thing meant was that if someone is required to pay something back to Legal Aid, and you find out he can pay more, then it's your obligation to advise Legal Aid.

But in these circumstances, obviously we were both acting in a vacuum. I know that guy could pay. I know that. I refused a legal aid certificate, but he was represented under the Legal Aid Plan, because he went back and got himself a new lawyer.

Mr. Lawlor: Was he in the court the same day?

Mr. Stong: Yes. That's how I found out. Perhaps that only happened once, but anyhow it's happening. That's what we need guidance on.

Mr. Renwick: Mr. Chairman, I'm pleased to have the benefit of the remarks of Mr. Lawlor, Mr. Roy and Mr. Stong on this question of Legal Aid and I have some questions and comments that I would like to make, but as it is nearly 1 o'clock I would perhaps prefer to make them coherently, but before Monday. Would it be an undue burden on the ministry to bring the committee up to date, perhaps by a short memorandum, on the recommendations of the Osler task force and what the present state of the ministry's thinking about it is?

I may be out of date and maybe that is already available. I am prompted to ask for that because the Law Society circulated to all the members of the profession a summary of the major recommendations; it had an accompanying statement which commented on one or two aspects of it. Specifically, it had this paragraph:

"The task force makes 87 other recommendations. Nearly all of them have already been made by the Law Society during the past three years [and they mention a few of them]. No action has been taken, probably because the government hasn't decided on its

own policies and was waiting for guidance from the task force."

I think it would help me to bring the discussion down to earth if, when we resume on Monday, a brief response could be made to these recommendations so we can sort out what has been implemented, what hasn't, and what are the areas which are causing the government policy problems.

The second matter of information that I would like to have on Monday, if it is possible, is particulars of the 13 or whatever the accurate number of clinics which are now being funded, the extent of the funding, the moneys which—

Hon. Mr. McMurtry: We can give you that now, but we can give it to you on Monday if that's what you want.

Mr. Renwick: My guess is we are not going to have time to get it now and discuss it, but if I could have it on Monday, or if it could be delivered before or during the committee meeting, it would be fine with me.

The third matter is not directly related to legal aid but is part of the tragedy of the suicide of the girl in the training school at Lindsay. I noticed in the paper that Provincial Court Judge Stewart Fisher commented about his view of the tragedy and stated that it was most important that the transcript of the trial be made available at that time. I would hope that the Attorney General would take into consideration making certain that that transcript, as indicated by Provincial Court Judge Stewart Fisher, is made available for the coroner so that it can be discussed. I gather from the paper that Provincial Court Judge Fisher himself, of course, wishes to appear at the inquest.

Hon. Mr. McMurtry: We will certainly make available any information that will be of assistance, including the transcript. I can't see any difficulty in that. That certainly could be attended to.

The matter of the 87 recommendations presents a little different problem. We obviously can't give you a breakdown of our response in relation to all his recommendations by Monday. First of all, some recommendations—and I don't have them in front of me—simply haven't been proceeded on because of economic or budgetary restraints. I think perhaps on Monday I can give you a clearer statement as to our difficulty and a little guidance in that respect, but we will probably be here—

Mr. Renwick: I just wanted to sort out ones; I would like—

Hon. Mr. McMurtry: I don't know how difficult that will be. We will respond on Monday. I think we will probably be here for a few days yet, from what Mr. Lawlor indicates—

Mr. Lawlor: We haven't even started.

Hon. Mr. McMurtry: Well, there's the indication. As far as I'm concerned, I have no objection to coming back at some point but I don't know to what extent, Mr. Renwick, we can respond to your request.

Mr. Renwick: Could I break down the classifications along the line you have just indicated? Could you tell us which ones have been implemented—presumably that is not difficult, because a number of them are of an administrative nature—those which you

haven't proceeded with because of budgetary or financial constraints? Presumably the others are matters which have policy content and have to be considered and decided.

Hon. Mr. McMurtry: We may have considered them and decided what we are going to recommend to our cabinet colleagues, but certainly there would be a number—

Mr. Renwick: There may be some that you've rejected.

Hon. Mr. McMurtry: Yes, I think perhaps we can give you some guidance on Monday but to what extent I honestly can't tell you now.

Mr. Vice-Chairman: The committee stands adjourned until Monday after the question period.

The committee adjourned at 1 p.m.

CONTENTS

Friday, October 29, 1976

Administrative services programme	S-2437
Programme administration	S-2437
Adjournment	C-2453

SPEAKERS IN THIS ISSUE

- Breaugh, M.; Vice-Chairman (Oshawa NDP)
- Lawlor, P. D. (Lakeshore NDP)
- McMurtry, Hon. R.; Attorney General (Eglinton PC)
- Norton, K. (Kingston and the Islands PC)
- Renwick, J. A. (Riverdale NDP)
- Roy, A. J. (Ottawa East L)
- Singer, V. M. (Wilson Heights L)
- Stong, A. (York Centre L)



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SUPPLY COMMITTEE—1

ESTIMATES, MINISTRY OF
NATURAL RESOURCES

OFFICIAL REPORT — DAILY EDITION

Third Session of the 30th Parliament

Monday, November 1, 1976

Speaker: Honourable Russell Daniel Rowe

Clerk: Roderick Lewis, QC

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CONTENTS

A list of the speakers taking part in the debates in this issue of Hansard appears, in alphabetical order, at the back of this issue.

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LEGISLATURE OF ONTARIO

SUPPLY COMMITTEE

MONDAY, NOVEMBER 1, 1976

The committee met at 3:15 p.m.

ESTIMATES, MINISTRY OF NATURAL RESOURCES (continued)

On vote 2302, land management programme; item 8, conservation authorities:

Mr. Vice-Chairman: The first speaker is Mr. Makarchuk, followed by Ms. Bryden and Mr. Godfrey.

Mr. Makarchuk: Mr. Chairman, on the conservation authorities, I'd like to deal a bit with the Grand River authority again—my favourite authority. We have a close working relationship which—

Hon. Mr. Bernier: Are you still a member?

Mr. Makarchuk: No, I'm not a member right now. We have been exercising through the various courts for the last few years.

My first concern is the matter of representation on the authority. This is the appointment that goes on from the province and also the elections of the members to the authority. The way it operates right now is that the members from within the authority are like their own executive. However, what's happened is that you've got enough people on the executive that if they all vote for themselves, which they do, they continuously re-elect themselves. In a sense you've got sort of a self-perpetuating hierarchy that really doesn't represent anybody. That results in a city like Brantford, as an example, which contributes a considerable amount of money running into hundreds of thousands of dollars to the authority, having no representation whatsoever.

I think you've been aware of the fact that the authority itself did examine the possibility of changing the representation of that authority. I think the chairman of the Kitchener-Waterloo region is in favour of a change like it. They should be related somehow to population and, of course, the contributions generally flow from that. But there

should be some relationship between the authority membership and the population.

The authority people did submit a report. Their report, of course, was rejected by the conservation authority executive and the people resigned in a huff; and that's the end of that. It seems that the only way you're going to bring about a change to make that authority representative is through an amendment to The Conservation Authorities Act, or on initiative from the ministry at this end. At this time I'd like to hear the minister's comments on this and whether he intends to take any action.

Hon. Mr. Bernier: As you know, we have been considering amendments to The Conservation Authorities Act for some considerable time now, updating it and making some minor housekeeping changes. Those are still before us. I don't expect they'll be introduced at this particular session. In fact, I'm not sure they will be introduced next spring. I have to admit that I have not given consideration to changing the membership of that specific authority. As you know, under the Act now the minister can appoint the chairman. He has that authority.

Mr. Makarchuk: Yes, that's right.

Hon. Mr. Bernier: And we exercised it, I think, four or five times out of the 30.

Mr. Makarchuk: In this case the chairman is elected by the members of the authority.

Hon. Mr. Bernier: We could exercise that prerogative and appoint the chairman if we so wished. It would be a deviation from the present practice, there's no question.

Mr. Makarchuk: I don't think you would follow that route though at this time.

Hon. Mr. Bernier: I'm not anxious to go that route, I have to admit that. I would sooner have the local people do their own. There's some kind of historical significance to making appointments in other areas which we follow. But we're moving away and letting local autonomy take over.

Right at the present time I'd like to have a look at the situation and review just the points that you bring forward. I think they're good ones, really, because we believe in representation by population. So why shouldn't it apply to conservation authorities? There's no question.

Mr. Makarchuk: The other point that happens in conjunction with this is that if a city has a special project or a special problem, there's no way that the city's views or decisions or aims can really be conveyed to the executive of the authority. You may have representation or you may eventually get it through the annual meeting or one of the regular membership meetings of the authority and it goes to the executive. But you and I know that the decisions are made by the executive. They consider it in the light of their own interests. Consequently, in Brantford again, in terms of flood control, in terms of the matter that I raised the other day about the hold blameless clause on housing and so on, they really do not have any kind of an input to that executive.

I feel that it not only is unfair in the sense that people do not have representation on an authority to which they're contributing a great deal of money, but also the authority does not function properly for the simple reason that it doesn't really know what's happening in the local area.

The other place where this develops into a problem is the matter of the authority tying up either the sites for development or sites for some housing projects and so on. Again it becomes a rather rigorous and a devious route to try and sort out between your ministry, the Housing ministry, the Grand River Conservation Authority, the local municipal people, the local planning authorities, to find out just exactly what you can do and what you cannot do.

As an example, if you put up a certain structure in the flood plain: Yes, it may be allowed, but we're not sure if it will be allowed or it will not be allowed. As an example, in Brantford there's an in-filling situation where a co-op organization wishes to put in some housing, about 28 semi-detached units, which would be a non-profit project sponsored both by the federal and provincial governments and so on. And they can't seem to get clarified through the conservation authority just exactly what they want.

They say, "Yes, I think you could put it up providing you do certain things." "No, we're not sure whether you can get it up."

They keep running back and forth, and finally they throw their arms up in frustration and consequently the result is that the project at this time is in abeyance and more than likely will not go ahead.

These are the kinds of things. By having people from various communities on the board, or at least represented, I think you're going to find that that authority will function a lot better and will deal with some of the problems and not alienate as many people in the area as it has done right now. There are a lot of people who are quite annoyed at this thing. It doesn't help you in any way, and for that matter, it doesn't help themselves.

Hon. Mr. Bernier: If I may comment on the points there, Mr. Chairman—and I have a great respect for the work of the conservation authorities across this province, make no mistake about that. We've been endeavouring now for at least a couple of years to impress upon the conservation authority members there has to be a greater rapport between them and the municipalities. There should be regular discussions going on, there should be regular meetings. In many instances—I think most of them—provide the municipal council with the minutes of their meetings.

But they in turn tell me that in many instances, you know, the councils are too busy to deal with other more important matters—you know, a "Don't bother us with this," kind of thing—and they have a hard time getting in.

We've impressed upon them that we want this to improve. We're going to insist it be improved, because you know after all it is the municipalities that are picking up the lump share of the dollars, there's no question about that, along with the province. In many instances, being an appointee is not being the same as an elected individual; that creates a bit of a problem.

We've brought these items forward and discussed them on a number of occasions with the conservation authority chairman and his committee, and we will continue to do so to try and improve the rapport and relationship between the conservation authority members and the municipal councils.

Mr. Makarchuk: I think one of the best ways to do that is of course to ensure that there are people on the executive that come from these councils. I can see the problem. You can't have all the councils perhaps on the executive, although there have been

some studies done and there are indications that it could be certainly more representative. But in the day-to-day workings of the municipality, if you have a person on the executive of the Grand River Conservation Authority and you have a local problem, whether it's the city engineer who has a problem, the building inspector, the roads department, whoever it is, at least they can say, "Okay, you're on the executive. You're dealing with them; sort it out." You've got somebody to go.

But this way you don't have anybody. You may have somebody—each municipality has a person on the authority, but they really carry very little weight. They go and rubber stamp—in fact that's all they really do, rubber stamp what has been decided by your ministry initially, approved by the executive and then, of course, rubber stamped by the authority.

And it all flows from the top, even though it has the appearance of a lot of local autonomy. When it starts from the bottom of course, to come up to the top it never gets to the top. The flow is always one way. It's not the other way. It's sort of blocked up there. And there's no way you can get to them.

So I think the reconsideration—making those authorities more representative should be one of the matters you should give a great deal of priority in your legislative programmes.

The other one, of course, is my favourite bridge on the Elora Gorge; it may end up that they'll name it after Makarchuk and Rosenberg as the builders of the bridge.

Mr. Reid: The lawyers are certainly happy.

Mr. Makarchuk: Yes, the lawyers are very happy. At this time the case as you know, Mr. Minister, is not before the courts, so you're free to talk about it. I just want to find out what your ministry's feelings are about the opinion of a lot of people in that area, including your local PC associations—there are a few of them involved in this thing—regarding the environmental impact. It is, shall we say, a personal thing in the sense that the people who are opposing it cut across all political lines and come from all walks of life. There are about 30 or so different organizations that are involved in preventing that bridge from going over the gorge in that particular area.

I think nobody would have been concerned, or there would not have been this argument, if this bridge was placed anywhere else. Some other concerns or local concerns

might have been generated if the roads were moved, but certainly the main intent of preventing that bridge is to prevent it from going over what is considered to be the most scenic area of the gorge, the place where it would have the greatest environmental impact in terms of being detrimental to farm life, scenery, etc., as well as generally ruining the area.

Your ministry is in a position to make some decisions to prevent that bridge from going over the gorge in that area. I just wonder, is the ministry prepared to look at this, examine it and come up with some suggestions or ideas to give some direction to those people? In other words, it would stop the hassling over the bridge right there and we could start looking at the alternatives. There are alternatives, as has been mentioned by planning people in that area. For example, I think Thompson, who is the planning director of the Kitchener Planning Board, has suggested that there are alternative sites for the bridge.

I think this could be cleared up once and for all if your ministry sort of took the initial step and said, "Look, we don't think the bridge should go across here. We don't think this area should be destroyed, which will happen if the bridge goes in there." Then we can start looking at the alternative positions. In that way, the gorge will be saved and they'll have their bridge. What are your ideas about that?

Hon. Mr. Bernier: Since the Supreme Court turned down the leave to appeal, I'm expecting the conservation authority will be making application to us; I expect that any day. I think my position at this time would be to discuss the issue with T and C. I think the Ministry of Transportation and Communications would want to have an input. It may well be, after all these months and years of delay, that their priorities may be adjusted or changed; I don't know.

Mr. Makarchuk: That's right.

Hon. Mr. Bernier: I would also consider discussing it with the Minister of the Environment to get his reaction on the possibility of an Environmental Assessment Board hearing in that particular area. Until I get something firm from them—some direction or some request—I'll give thought along those two lines at the present time and wait until I get a formal application from them as to what I should do. I think I would have to say to you that I would go both those routes.

Mr. Makarchuk: What about your own ministry, the Ministry of Natural Resources?

You have a lot of control over the conservation authorities, at least in terms of moral suasion. Couldn't you try to persuade them to look for alternative locations for that bridge?

Hon. Mr. Bernier: I haven't discussed it in detail with the staff or got the reaction of the expertise within my ministry as to what direction we'll go yet. I certainly will do that when the time comes.

Mr. Makarchuk: Thank you very much, Mr. Minister. I think the other area that I'm a bit concerned about is the Long Point area, our favourite duck shooting club. But I think it comes under another vote—it's not a conservation area—so I'll discuss that later. I gather it's quite good up there.

Hon. Mr. Bernier: It is?

Mr. Vice-Chairman: I would like to ask a question of the committee. I have a concern in the matter that Mr. Makarchuk just brought up about the Elora bridge and, sitting as Chairman, I don't feel I should discuss it. Could I step aside for a few minutes and let someone else take the chair? If that's all right, would you name someone to take my place?

Mr. Reid: I think the member for Beaches-Woodbine (Ms. Bryden) would make an admirable Chairman.

Mr. Yakabuski: I'll concur with that.

Hon. Mr. Bernier: Are you going to be the Chairman from there?

Ms. Bryden: Yes.

Mr. Vice-Chairman: To be fair, we actually have two other speakers, Ms. Bryden and Mr. Godfrey. Would you like to go through those and I'll put my name down on the list?

Ms. Bryden: If you're on the Elora Gorge, it seems to me we should continue with that at this moment.

Mr. Vice-Chairman: Well, would you like to come up and take the chair?

Ms. Bryden: All right.

Hon. Mr. Bernier: I don't think I've had the pleasure of having a female chairperson before. This is a first for me.

[3:30]

Madam Acting Chairman: It's a first for me too. Would you proceed?

Mr. Johnson: I would like to take issue with Mr. Makarchuk over the fact of delaying

the Elora Gorge bridge. This has been in the process for about two years and it is my understanding from the county engineer that it has cost many hundreds of thousands of dollars in delay. All the townships in the region, the village of Elora itself and most of the people are very much in favour of this bridge. The decision to build the bridge at this particular spot, in Mr. Makarchuk's viewpoint, isn't the best, but in the opinion of the engineers and the people who are involved, the majority of them do feel that this is the correct spot and they are quite disturbed at the lengthy delay.

The fact that Elora Gorge cuts the village of Elora in half and at certain times of the year people living in the south half of Elora have to drive into Fergus and cross the bridge in Fergus, which is a distance of three or four miles away, and then return on the north shore is an indication of how serious a problem it is to the people who are directly affected. These people are in my riding and the majority of them by far are very much in favour of the bridge being built as soon as possible. I would like it to go on record that I strongly support this viewpoint. That's all I have to say.

Mr. Makarchuk: I think on that same point that nobody is arguing about the fact that the bridge should be built. If the traffic studies indicate that it should be built, let it be built. The argument is that it doesn't really have to go where they intend to put it and I think that should be clarified in everybody's mind. There are no objections to bridges 2,000 feet either side of the point where they intend to put it. There are alternate routes that have been suggested for the bridge, and if it wasn't for the rather bull-headed approach to the whole situation of saying, "We'll put it there regardless of what anybody says," you probably would have had your bridge by now.

Mr. Johnson: The problem seems to be that Mr. Makarchuk has an opinion regarding where the bridge should be placed. The county engineer and the road people seem to feel that the ideal location is the spot they have selected. I don't want to get into a controversy over this. It has gone through a two-year hearing process now. I just want to go on record as being strongly in favour of the bridge being built as soon as possible without any more undue delay.

Madam Acting Chairman: Do you care to reply, Mr. Minister?

Hon. Mr. Bernier: No, I have no comments other than what I have already made that

when the appropriate time comes we will look to both of those ministers for their comments and then proceed accordingly.

Madam Acting Chairman: Is there anybody else who wants to talk about the Elora Gorge before we move on?

Mr. Johnson: Before resuming the chair, if I am allowed to do so, if I could have the permission of Madam Chairman, I would like to mention the Montrose Dam proposal. This is one that has caused more of a problem than the bridge. It is in the same vicinity and the same people are involved pretty well in both projects. It's come to the point that the chairman has resigned, or at least has submitted his resignation, over the proposed Montrose Dam project because he feels there hasn't been enough study made of it. Heaven knows there have been enough studies—they have been studying it for 50 years. But apparently for some reason it is never satisfactory to the majority of the people involved.

The problem seems to be that if the dam is built where it is proposed it will cut Pilkinton township practically in half. They are very strongly opposed to it, yet the Grand River Conservation Authority seems to feel that this is the best of several schemes. If it is the best, it certainly isn't coming through to the people and I again would have to go on record at the present time as being in support of the people who are opposing the construction, until it can be shown that it is indeed the only logical place for this project.

Mr. Makarchuk: On that same point, here we have the double standard: You have an environmental assessment report, an engineering report and all sorts of studies, indicating that the dam should be built; yet because the people don't want it, don't agree with it, therefore it is okay not to build it.

But on the same basis, using the same arguments, where you have the engineering studies and the reports that say the bridge should be built, you say therefore we will build a bridge but not the dam.

I am not arguing for the dam in this case. I am just saying you can't use the double standard in both cases. There is good reason for examination of both projects, and I quite agree with you in this case, despite the fact that we are probably on the receiving end of a lot of the stuff that the dam may hold back sometimes if ever.

Mr. Johnson: I am not quite sure. Are you in favour of the dam or against it?

Mr. Makarchuk: At this time I am not particularly in favour of the dam; I have reasons to doubt its usefulness, but I think we will discuss that later on.

Madam Acting Chairman: Would you like to reply?

Hon. Mr. Bernier: As the members know this particular project has not been approved and there is no financial commitment for the province at this time. They are going through some studies right now. I understand the Environmental Assessment Board is holding hearings down there now on the dam itself. That is something we will watch and wait to hear what their recommendations are. We will be watching that with a great deal of interest. I suspect it will be going to the OMB for further discussion and review there. We have a few hoops to go through first before any final decision on the question, but I appreciate your comments.

Madam Acting Chairman: Anything further on either the gorge or the dam? If not, I would be happy if the member for Wellington-Dufferin-Peel would resume the chair.

Mr. Vice-Chairman: Ms. Bryden is the next speaker.

Ms. Bryden: On this conservation authority vote, I notice that it has dropped from \$32 million to \$28 million. I would be interested to know exactly where the drops are from last year. Certainly conservation authorities have in the past fulfilled the very important need of providing recreational space for people close to large urban centres. One of the main criticisms of our provincial parks programme is that in most cases the parks are where people aren't, to a large extent. Unless we do provide recreational space close to major urban centres we are not really serving the needs of the people of Ontario adequately.

The demand for such recreational space is growing with the growth of apartment dwelling and condominium dwelling, with less open space around people's dwellings. Also there is less gasoline for long trips. So I think it is extremely important that we maintain and extend the recreational facilities connected with conservation authorities.

I was quite disturbed to hear the provincial Treasurer (Mr. McKeough) was recommending that conservation authorities should be spending less money on land acquisition than they have in the past. He said more money is being spent on park land than is good for the public purse at this time. I wonder if he has considered the fact that any

delay in acquiring necessary land inflates the cost tremendously. If the Niagara Escarpment, for example, had been acquired 15 or 20 years ago, it could have been acquired, I am told, for \$10 million. Now probably 10 times that will be required.

The provincial Treasurer also suggested that the surveys of what people did with their recreational time indicated that they spent far more time watching television than in parks. This seemed to indicate that we didn't need any great expansion in our conservation parks. It seems to me that again it would be desirable to get people out into more active forms of recreation and to make it possible for them to engage in those. I am not sure whether the fact that a park is not like a Coney Island, is not something in its favour. You do need open space in parks and you don't want them to be over-utilized; therefore, you need more land.

I would just like to ask the minister if he agrees that the conservation authorities should be cutting down on the amount of money they are spending on land acquisition and how much of the present vote is for land acquisition compared to how much money was spent last year on land acquisition.

Hon. Mr. Bernier: If I could respond to the earlier question concerning the reduction in the overall amount of the vote from a figure of \$32,232,000 last year to \$28,421,000 this year. Much of that was in the restraint programme. Capital grants were reduced \$1,187,000; support staff, \$14,000; printing of pamphlets was reduced by \$25,000; grants to Lake Ontario waterfront dredging were reduced by \$550,000; Lake Ontario waterfront programme reduced by \$1 million; the Guelph reservoir, \$2,856,000; the aquatic park programme, \$51,000; and staff that were transferred to other activities, \$162,700; for a total of \$4,658,000. That is where the reduction came in. It was in special projects and special programmes.

Getting back to the Treasurer's comments in connection with his speech at Chatham and his urging that the conservation authorities redirect their priorities with more emphasis on water management and water control, that is something I have been considering personally for some considerable time. With budget constraints and with the budget dollar becoming scarcer and scarcer now and more pressure for more priority items, we have been talking to the conservation authorities along these lines.

We have in the province of Ontario an amount equal—that is taking out Quetico, Algonquin, Killarney and the Polar Bear

parks; if you take those out of our total acreage in the parks system—we have about 1.5 million or two million acres of park land now that is being used in the various provincial parks in Ontario, the ones that are visited on a regular basis by the public. We also have an area equal to that in park reserve that we have picked up over the last several years that has to be developed. Those park reserves, that land acquisition, is sitting there not being developed because of lack of dollars.

What the Treasurer was saying is why should we be buying more when our priorities for the conservation authorities should be water management, water control, erosion programmes and things along this line? We have this surplus reserve land that is not being developed and is not developed at the present time. Maybe we should pause in our land acquisition programme, with which I agree. I have directed a letter to all the chairmen of the conservation authorities asking them to rearrange their priorities.

Land acquisition, in my opinion, should be, for the next short period, at the bottom of the priority list. The direction should be to water management and water control to get us over this budgetary problem that we have, which we hope will not last that long. I have agreed with the Treasurer that we should take a pause in land acquisition for recreational development and if we have extra funds, that maybe we should use them to develop the lands that we already have.

[3:45]

I know the old argument is there—I buy it today because it's cheaper; tomorrow you won't be able to afford it. It's great and we would love to do that. That's the policy we have been following through for some considerable time now but there does come a time when the chickens come home to roost. We just can't go on banking land at great lengths in perpetuity, looking ahead to future generations and trying to supply their needs, too. We have had to readjust.

I think we are going in the right direction; in fact, I am convinced that we are. We feel fairly secure that we have a large reserve in the bank that we can develop in the next short period and still provide the recreational demands that are, as you correctly pointed out, upon us from the urban areas in particular. We can supply those needs. Of course the parks programme will continue. We will continue to develop such things as Bronte Creek and the urban parks. I think it is true to say that we had to review our proposals with regard to Komoka Park for this very

reason, because of high land acquisition costs which were just getting out of hand. If we are going to supply the recreational needs we have, then we should be putting it into the direct development of lands we have.

The final question was something about figures for land acquisition. We don't have those broken down. We can get them for you. It may take us some time.

Ms. Bryden: Would you do that? It would be very useful.

Hon. Mr. Bernier: We have to go through all the 38 conservation authorities to see what they have put into land acquisition and what they plan for this year.

Ms. Bryden: Is the land acquisition amount in this heading other capital grants?

Hon. Mr. Bernier: Yes, it is other capital grants. Land acquisition would be in there.

Ms. Bryden: How much was the other capital grants total for last year? Do you have that?

Hon. Mr. Bernier: It was \$23 million.

Ms. Bryden: So it is down \$3 million there.

Hon. Mr. Bernier: It is down \$2.7 million.

Ms. Bryden: It seems to me when you are talking about the fact that you have reserve park land undeveloped and that this should take priority over new conservation authority land, you are missing my point that a lot of the provincial parks are in remote areas. I imagine a great deal of that reserve land is in the Polar Bear Park away up north and that very little of that is in parks that are close to the major urban centres. To give that priority over increase in conservation authority park land doesn't really answer the needs of the people in the urban areas, whose needs, I point out, are growing.

Hon. Mr. Bernier: No, if I may correct you on that, the extra reserve we have and the acreage I am referring to is not in northern Ontario or in the Polar Bear Park area. They are in southern Ontario. That's why I compared it because we have lands here that are being held in reserve by the Ministry of Natural Resources.

I think we should look at the three levels. We have municipality parks; we have conservation authority parks; we have provincial parks; and we have national parks. I think it is time to have a look and say: "What do we have in the bank? What do we have

developed?" We should co-ordinate our whole approach with regard to the demand for recreational land as it relates to parks. But the acreage I refer to is indeed adjacent to the built-up areas of southern Ontario, not in the remote areas of northern Ontario.

Ms. Bryden: It still seems to me that we need both really. We need expansion of the conservation authority parks which are very close to the urban centres. Most of the provincial parks are a little more remote and require longer trips and more gasoline to get to them. Regardless of whether you say we can't afford to buy it now, the longer you delay the more it does cost. We are really protecting future generations by acquiring some land. This seems to me the wrong place for restraint, to cut your park land acquisition programme down by almost \$3 million.

The other thing I noticed when you were itemizing the other cuts is \$1 million off the Lake Ontario waterfront programme. Could you tell us what was being undertaken in that programme and what has been cut out by that \$1 million cut?

Hon. Mr. Bernier: I'll ask Mr. Peacock to give us some details on that. But before I do that I wanted to put on the record the amount of reserve areas we have. We have 104 park reserves right now, totalling 1,262,335 acres. In the Niagara Escarpment area land acquisition is 42,520 acres, and Crown reserves for recreation, 1,219,814 acres, for a total of 2,484,669 acres of land now in reserve.

Ms. Bryden: Is that all over the province?

Hon. Mr. Bernier: Yes right.

Ms. Bryden: How much of that is in southern Ontario?

Hon. Mr. Bernier: The biggest percentage would be in southern Ontario.

I'll ask Mr. Peacock now to give us the detail on the \$1 million reduction for the Lake Ontario waterfront programme.

Mr. Peacock: The cutback on the Lake Ontario waterfront plan was merely a matter of reducing the amount that would get done in the five-year period, as I understand it. It's a 10-year development plan. We've just finished the five-year phase and we have now in front of us for consideration the second five years. And here again, I guess the agonizing question that faces us is whether we can get that done in five or whether it's going to take six or seven.

Mr. R. S. Smith: I have a couple of questions with regard to conservation authorities. I guess there are no more problems the minister has with the conservation authority that's in my area—or partially in my area, the rest in Parry Sound. He made a ruling—and I suppose this is part of the legislation—that once you are in, you are in. There's no way back out. And any municipality which is brought into a conservation authority—whether it is brought in by its own vote in a positive way or it is brought in kicking its feet voting against it—regardless of how it voted is in that conservation authority forever and ever and a day, if that is the considered opinion of the minister. I would like to ask you if this is what you call local autonomy.

Hon. Mr. Bernier: I think it is fair to say we looked at this situation very carefully and over the last 30 years it's clear that as we established conservation authorities at the request of the local authorities there would be one, after a period of time, led by maybe a small group, which felt they weren't getting their fair share of return from the conservation authority and right off the bat they wanted to opt out. Well, I think—

Mr. R. S. Smith: A majority of the members.

Hon. Mr. Bernier: Well, sometimes—yes.

Mr. R. S. Smith: A majority of the members.

Hon. Mr. Bernier: It would change from year to year, this was the problem.

Mr. R. S. Smith: This past year it was the majority.

Hon. Mr. Bernier: It wasn't really consistent on a long-term basis. And I know the ones that have applied to, or at least made some indication to withdraw in the past are now working in the respective authorities to which they belong. They are enthusiastic and they are leading the way. So it takes a period of adjustment to get into the programme of the conservation authorities.

I think there would be complete chaos—and I am sure the member would agree with me—if every time there were new appointments made and the municipality didn't get its way or didn't get consideration in that particular period, they opted out of the programme. I don't know how we would administer the programme for any length of time. We give careful consideration at the time and there are full-fledged votes and it's

carefully done with public participation and all the various steps they have to go through.

Mr. Laughren: Regional government.

Hon. Mr. Bernier: Well, that's very true.

Mr. R. S. Smith: No choice.

Hon. Mr. Bernier: It's been said before, the conservation authorities could well be looked on in that cast.

No, I am sympathetic to some of their arguments, really I am. I just don't turn my back on them. But I can't see how we could allow municipalities to opt out at will and still have a functioning programme. This is the big problem.

And I believe in local autonomy.

Mr. R. S. Smith: Local autonomy—it depends on what you mean by local autonomy. But obviously I have to agree with you that you can't carry on administratively if people are going to be opting in and out. There's no question about that. But we are having a debate in this country about an amending formula and, of course, in so far as conservation authorities are concerned there is no amending formula. You are the amending formula and there is really no input from the municipality at all, whether they want to be in or out, in some cases. They can say they don't want to be in but they can be put in and they are put in.

You say that conservation authority is now working fairly well and I agree that it will work fairly well in time and should work fairly well except that the one problem with it is that it doesn't cover the whole watershed. And, of course, the whole premise of a conservation authority is that it covers a watershed. It was an abortion to set it up in the first place the way you did.

The fact of that matter is that before you are going to make that thing work properly you are going to have to cover the whole Nipissing watershed. In order to do that you are going to have to pay your share, your responsibility, for those unorganized territories that make up a good portion of that watershed. And, of course, because of the way the conservation authorities are set up the bulk of the cost is found to fall back on the larger municipalities. You must admit as well that conservation authorities were never devised to be applicable in northern Ontario. All you have to do is look back on the history of them and I think even the minister can see that.

There are five now, as I understand it, in northern Ontario. They do work in some fairly well built-up areas where there is a

good tax base and where there is a fairly large population. But to try to apply them over a very large area, which you would have to do in most watersheds in northern Ontario, with a very small tax base and a very sparse population is almost ridiculous. That is basically the problem with the authority to which I refer.

It's not the people concerned. It's the way it was set up in the first place and the fact that it doesn't cover the whole watershed. And the tax base is not there to support a conservation authority in the same way that conservation authorities are supported elsewhere in the province. So, in fact, it's really questionable whether they should be applied in northern Ontario or not.

The other end of that conservation authority should actually be in it if it is to work. I'd advise the municipalities to have nothing to do with it because they just would be in bankruptcy. There's no question about that because of the large area that would be taken in that would be unorganized for which they would have direct cost responsibility. And so until the province is prepared to come across with cost responsibility in proportion to the number of people in an area and in proportion to their ability through tax purposes to pay then, of course, the conservation authorities in most of northern Ontario, I think, are not feasible. And there should be no attempt to bring any further municipalities into that area unless we have dramatic developments in a specifically small area which covers a whole watershed.

I think that's basically the problem with that conservation authority—not particularly the people involved, because the people change from time to time. And I agree with you that it will work to a certain extent but it will never work to a full potential. I think it's Natural Resources' responsibility to do the things that are being done in there right now. I think it was just a method of getting rid of part of your responsibilities to set up that conservation authority.

[4:00]

Hon. Mr. Bernier: I have to admit that the problem as it relates to the large tracts of Crown land in northern Ontario is different from the problems in southern Ontario. There is no question. I think we agonized for months when we established the boundaries of the Sudbury area—and the boundaries for the conservation authority in the Timmins area. It's actually huge. But when you take in—

Mr. R. S. Smith: The largest of them all.

Hon. Mr. Bernier: That's right—it is the largest in Ontario. But when you take in the watershed—you find yourself in northern Ontario taking in huge expanses of Crown land, which as you correctly point out had been a responsibility of the Ministry of Natural Resources up to that time.

Granted the grants are there, but in many cases they're on a shared basis. The grants for dams of course are very generous—100 per cent pretty near—I think anything over \$30,000 is 100 per cent paid for by the province. So we feel that is not a problem there. But land acquisition in other areas is 50-50 so it does create a burden—which I'm aware of—it may well be that would be some area we'd have to look at. I don't see any rush in other parts of northern Ontario to join the conservation authorities.

Mr. R. S. Smith: No, I'm sure there isn't and rightfully so.

Hon. Mr. Bernier: Rainy River doesn't jump into it.

Mr. R. S. Smith: No, I'd just like to point out to you, though, that part of the problem here was not as you pointed out. You said there was a difference of opinion among people, but it was administrative costs that were the crux of the problem—as compared to what was actually being spent on programmes. If you look back on the situation I think you'll find that was a major portion of the problem. Of course that major cost—much of it—was going directly back to the municipalities concerned. They could see no results for that administrative cost. That was perhaps the most significant feature in their stand, as opposed to remaining within the conservation authority.

Let's get away from that matter. The other question I wanted to ask you was that I notice in here you have other capital grants—when Ms. Bryden was questioning you with regard to moneys for capital expenditures toward the acquisition of land—in what other part of your land management programme do you have moneys for this purpose? Or is it all under conservation authorities?

Hon. Mr. Bernier: For land acquisition, no. We have another area for land acquisition—recreational lands is another area for land acquisition.

Mr. R. S. Smith: I've been looking for it and I can't find it.

Hon. Mr. Bernier: If you look under the other vote, the one just before this, you will see a figure there—

Mr. R. S. Smith: Not under land management?

Hon. Mr. Bernier: Yes, land, water and mineral title administration.

Mr. R. S. Smith: Number seven?

Hon. Mr. Bernier: Yes, it's in the printed estimates—land, water and mineral title administration.

Mr. R. S. Smith: Yes.

Hon. Mr. Bernier: Acquisition, construction and physical assets, 2.84—see that?

Mr. R. S. Smith: Acquisitions, construction and fiscal assets, \$4,206?

Hon. Mr. Bernier: I have \$2,864.

Mr. R. S. Smith: My book says \$4,206.

Ms. Bryden: That was last year. It does show the drop.

Hon. Mr. Bernier: Was it last year's?

Mr. R. S. Smith: Okay, that's fine. For those areas outside the conservation authorities then, there's been a 33½ per cent drop.

Hon. Mr. Bernier: Thirty-three per cent?

Mr. R. S. Smith: Thirty-three per cent drop.

Hon. Mr. Bernier: Drop, yes.

Mr. R. S. Smith: For those areas outside of conservation authorities. The fact of the matter is there is practically nothing for acquisition of land if you are not in the conservation authority.

Hon. Mr. Bernier: I wouldn't say nothing.

Mr. R. S. Smith: Anyway, I came to you with a very great problem in Lake Nipissing, where one of the islands in the centre of the lake was all of a sudden being developed for cottage lots. Of course on that lake it varies from year to year according to the percentage that you people wish to use. But you do have less than the amount of ownership of land in the public domain than is required to meet your own standards.

Hon. Mr. Bernier: Under The Public Lands Act we should have maintained for public use about 25 per cent of the usable shoreline. Why we don't have that.

Mr. R. S. Smith: You don't have 10 per cent. You don't have five per cent, really. In fact you might not even have two per cent, if you really look at it. I can't find any that

doesn't belong to the Indian band, that you people could have. There's one portion that you have designated and developed. Other than that, there's practically nothing.

You had the opportunity to buy this very large island that sits right in the middle of the lake along with two other islands that you own. It was turned down flat in a manner that you didn't have the money to buy it. That may well be true but I don't think there was any look at whether you had the money to buy it or not. I don't think you even looked at the price or attempted to find out what the price was. As far as I'm concerned, the aesthetics of that lake will be and are being affected by the development of that island. That's the biggest inland water lake in the province.

Hon. Mr. Bernier: Lake Nipissing?

Mr. R. S. Smith: Yes, the whole lake as a total.

Hon. Mr. Bernier: I question that, coming from Kenora. It would be next to the Lake of the Woods.

Mr. R. S. Smith: Oh, yes, but Lake of the Woods is a group of lakes. Lake Nipissing is one lake, if you look at it in the proper perspective.

Hon. Mr. Bernier: I'll bring myself up to date.

Mr. R. S. Smith: I'm not interested in arguing over the semantics. I'm interested in arguing over the fact that because you people allowed the development on that island, from now until the end of time the aesthetics of that lake and the environmental impact of that development will have to be lived with century after century of people. I don't think your ministry took a proper responsible attitude towards the allowing of the development for that island. I would like some comments from the minister.

Hon. Mr. Bernier: I don't know the specific details. It was some time ago when that came to my attention. I'd be glad to get some and just review some of the comments that you've made that we didn't look at the price. I'll find out just how much land we do have on that particular lake and maybe correspond with you and give you some exact figures on what we have.

Mr. R. S. Smith: What you own is rock. What you own is what nobody else wanted over the last couple of years.

Hon. Mr. Bernier: It's usable shoreline.

Mr. R. S. Smith: I don't think it's usable, though you might.

Mr. Laughren: In Sudbury they scramble for rock.

Mr. R. S. Smith: We have a different attitude down in God's country.

Hon. Mr. Bernier: We'll make a thorough review of that situation for you.

Mr. R. S. Smith: Yes.

Hon. Mr. Bernier: I'll be glad to.

Mr. R. S. Smith: I'd also like you to look at the question of these mining patents that are all over the place that give people rights to develop land under old mining patents back from 1870. They are almost a hoax. Most people believe you can't develop them, but really and truly you can.

Hon. Mr. Bernier: I've asked the committee looking at The Mining Act to look at that problem, particularly as it relates to built-up areas. I am thinking of Geraldton now and Kirkland Lake. Red Lake is a good example where mining companies patented those claims years ago. Not only do they own the mineral rights but they have exclusive use of the surface rights. I think the surface rights somehow should be made available to the Crown and to the public. I have no qualms about them keeping the mineral rights, providing they pay for them, of course—

Mr. R. S. Smith: This is one case that is very significant.

Hon. Mr. Bernier: —but it is an area I am deeply concerned about, because it ties up a lot of very valuable land in northern Ontario. Of course, they don't get patents for mining claims any more—it is a 21-year lease—so we don't have that problem. But it is with us and we have to come to grips with it sooner or later.

Mr. R. S. Smith: But it has allowed this type of good recreational land to be tied up with very little investment. All they had to do was pay their mining claim each year—

Hon. Mr. Bernier: That's right.

Mr. R. S. Smith: —and make an investment so small you can hardly recognize it; then, all of a sudden, they have land that's worth millions of dollars.

Hon. Mr. Bernier: Right, It would make a good purchase.

Mr. Bain: I would like to pursue this for a second. You are aware, of course, that all the patented mining claims and leased mining claims aren't held by large companies. If you are considering reversing that policy, I am sure you are aware that a lot of people in northern Ontario are farming patented mining claims; in fact, you mentioned Kirkland Lake. To a lot of people, it's not a mining claim in the strict sense that they think they are going to have a mine out of it; it's their home. If you are thinking of taking away their surface rights, you are going to have an awful lot of ordinary people who are going to be mighty upset.

Hon. Mr. Bernier: I think you are totally misinterpreting my remarks.

Mr. Bain: That's why I am asking the question—so it will be clarified.

Hon. Mr. Bernier: There are certain properties not being developed at all; they are just sitting there and throttling or hindering development. They are not being used for farming. They are not being used for housing. They are just being left idle. It is very annoying to some municipalities when they develop up to the edge of a mining claim and the company is not interested in dealing; or, if they want to deal, it's at an exorbitant price, and there's a space in that particular area. This happens in many of those communities.

Mr. Bain: I would trust that any changes would certainly guarantee individuals who live in homes and farm land that they won't lose their surface rights—

Hon. Mr. Bernier: No, no.

Mr. Bain: —because they have a patented or leased mining claim.

Hon. Mr. Bernier: That's not the thrust at all. It is a complex area. I don't have the answer, I can tell you that, but I know the problems.

Mr. Williams: Mr. Chairman, with the assistance of Mr. Peacock, I would like to come back to the Metro Toronto waterfront programme.

Mr. Minister, I gather from the estimates that the \$1,584,000 that was budgeted was \$1 million less than what had originally been prescribed in accordance with the five-year plan of the Metro conservation authority. Is that correct?

Hon. Mr. Bernier: Right.

Mr. Williams: Because this is such a substantial and ambitious programme, and taking into account the cutback in the order of \$1 million that we are talking about, I am wondering whether you or Mr. Peacock could provide us with some elaboration of exactly where the programme is in place at the moment; what recreational facilities have come on stream this past year; what ones are likely to come on stream next year, allowing for the extended programme; and what progress, overall, is being made in the area? I would like to have an update on this if I could, Mr. Minister.

Hon. Mr. Bernier: Mr. Peacock, could I call on you for a report?

Mr. Peacock: To clarify my earlier remark about the reduction from 1975-1976 to 1976-1977, which is the budget year we are looking at, you will notice that in the previous year the programme was up at about the \$3-million level. They had a lot going that year and we provided more funding within that year; then it was reduced in the current year. The net result was that in the five-year period they did complete what they had projected to do and we are now reviewing the second five-year period for the 10-year total plan.

[4:15]

Mr. Williams: What was the total financial commitment made by the province for that first five-year programme that's now concluding?

Mr. Peacock: I can't answer that right off.

Mr. Williams: Were the moneys allocated equally over the five-year period, do you recall?

Mr. Peacock: No, they weren't.

Mr. Williams: They weren't.

Mr. Peacock: They weren't, that's what I'm explaining. 1975-76 was a big year and then there was a cutback in 1976-77. But the net result was that they completed the programme as originally projected over the five-year period and within the budget they had projected.

Mr. Williams: How was that attainable if, in fact, there was this million-dollar cutback? I'm not clear on that. If that in fact was being put over into the next five-year period, how could they achieve those physical improvements to the facilities with lack of working capital to that extent?

Mr. Peacock: I'm sorry, what I was attempting to say was that they did project it in equal amounts over the five-year period, but in the year 1975-1976 they had a big year and we funded them above the funding level. The cutback is back to something just below the funding level. So the net result was what they had asked for.

Mr. Williams: Minimal disruption to the programme.

Mr. Peacock: Yes.

Mr. Williams: Could you, Mr. Peacock, perhaps elaborate on the achievements to date, starting from the west end of the boundaries of the project in the Port Credit area and moving along the shoreline? Are you in a position to give us some background?

Mr. Peacock: They have put in a good deal of landfill in the Humber Bay area and developed parking sites and launching. I could go into each one here, I have the list now. Humber Bay east, grading of landfill to be completed, 38-acre landfill base created; Humber Bay west to commence phase two of the project, that was in this current estimate.

Mr. Williams: That 38-acre tract that you're speaking of, was that for accommodating boating facilities, power and sail?

Mr. Peacock: Parking and marina and boat launching.

Mr. Williams: There's a total marina complex in there, as I recall.

Mr. Peacock: Humber Bay west, to commence phase two of the project, landfill for marina facility, 15 acres of new land created. Ashbridges Bay—

Mr. Williams: I'm sorry, just before you jump over there now to Ashbridges. Humber Bay and the Humber Bay west—they're not totally operational at this point of time are they?

Mr. Peacock: No, they're still working on those.

Mr. Williams: Are they being used to a limited extent at this time?

Mr. Peacock: Yes, they are. They had one boat launching ramp in operation when I was there earlier in the summer.

Mr. Williams: Their programming calls for those facilities to be totally operational by what year—next year or the following year?

Mr. Peacock: We are now looking at another five-year programme which should complete the whole thing. I would presume that we're looking at completion of Humber Bay west in the next year or so.

Mr. Williams: Ashbridges Bay?

Mr. Peacock: That project is to be completed this year, including landscaping, roads and eastern beaches boardwalk. The land-filling was completed in 1975.

Mr. Williams: At Ashbridges? What's the total acreage there that is under development?

Mr. Peacock: I haven't got the acreage of that one, but I can get it for you.

Mr. Williams: Is that, again, largely directed toward recreational boating activity?

Mr. Peacock: It's a combination of shoreline protection, access for the public to the lake and the recreational facilities you mentioned.

Mr. Williams: Does that incorporate the artificial arm that's being filled out just east of the Eastern Gap, or is that separate and apart from this facility? This is a little further east, I guess, is it?

Mr. Peacock: It's a little further east than the aquatic park. That is a separate item.

The fourth one, if I might go on, is Bluffers Park which was phase one. It was completed this year and there was an official opening and the public is using it.

Mr. Williams: That's at the foot of the Scarborough Bluffs, isn't it?

Mr. Peacock: Right at the base of the Scarborough Bluffs.

Mr. Williams: What is the size of that facility compared to the other two we've been talking about? I just don't recall whether they are comparable in size or—

Mr. Peacock: Again I don't have an acreage, but that is, as I recall, around 35 acres. That phase is completed. There is another—the second phase is now under way to the east of the Bluffers.

Mr. Williams: I'm sorry, I'm not personally aware what the charges are for access to this Bluffers Park facility. Are they in keeping with the charges into other conservation areas?

Mr. Peacock: Bluffers Park was turned over to Metropolitan Toronto and is operated under the Metropolitan Toronto parks system.

Mr. Williams: So you're not personally aware of what the entry fees are for the use of the site?

Mr. Peacock: That's right. The authority does not operate it, and I presume that's the intent with most of these, to turn them back to the municipalities.

Mr. Williams: Great. Is that the résumé that you wish to—

Mr. Peacock: Well, just to mention that the design work on the western beaches for phase two of the project is continuing.

Mr. Williams: What will that incorporate?

Mr. Peacock: That involves design of additional landfills and the rationale for where they're going to get the fill from and where they're going to fill and so on. It's just the initial design.

Mr. Williams: What is the total acreage once this system is in place that will be available to the public in the completed scheme?

Mr. Peacock: I think it would be best if I got you a copy of the plan.

Mr. Williams: I've got a copy of the original plan that was put out. It's a very comprehensive document. I'm just trying primarily to get current on where we are in development of the plan. I'm conversant with the plan per se, but I'm not completely up to date with where we are in the scheme of things.

Mr. Peacock: We're on schedule for year five, having finished year five. We're heading into the second five years. And we've done it pretty well on schedule and on budget.

Mr. Williams: I see. I believe you're entering into discussions now for the next five-year programme. I guess, Mr. Minister, that wouldn't be subject-matter of the discussion here. We'll be allowed to discuss that at a later point of time.

Hon. Mr. Bernier: No.

Mr. Williams: There are just a couple of other questions I had then. One of the difficulties of course, as I understand it, Mr. Minister, is in dealing with the conservation authorities. I guess their fiscal years are at variance with our budgetary period. I recognize this is so with a number of other municipal agencies or equivalents.

But because of the long-term planning of the conservation authorities, does this create any particular difficulty in this time-lag factor that arises between our budgeting period and

theirs? If so, what is being done to try to minimize the adverse effects of that?

Hon. Mr. Bernier: A couple of years ago we could see this as a real problem, so we embarked on a very ambitious programme in an attempt to advise the conservation authorities just what their administration grants would be. Then, early in the new year or even prior to Jan. 1, when they'll start their new calendar year, we'll advise them of what their capital expenditures would be. This has helped to smooth out the problem considerably.

I think the authorities were looking for this for some considerable time. We're able to do it now with our advance budgeting that we have and with the co-operation of the Treasurer (Mr. McKeough). So that problem has been rectified and I haven't heard too many complaints lately. Hal, I don't know if you have or not?

Mr. Peacock: It's been a big improvement.

Hon. Mr. Bernier: A big improvement.

Mr. Williams: Are they all going on long-term? When you talk about long-term, are they all on five-year programmes?

Hon. Mr. Bernier: I'm just talking about the budgeting from year to year. The new aspect of it is the five-year project, the five-year planning, the projections we do within our ministry on all our programmes. We've asked the conservation authorities to take the same stance and provide us with some long-range planning as to their priorities. That is starting to work, melding with our own ministry programmes. It is all working and is starting to mesh in much better than it has in the past. The co-operation of the authorities is really excellent.

Mr. Williams: Mr. Minister, I think it was alluded to earlier in the discussion—concern was expressed by some members as to the need to acquire more lands. Looking at those lands the authorities are acquiring strictly for recreational purposes, do we have any comparative statistics or has any analysis been made as to the amount of recreational lands in stock with our conservation authorities within the Metropolitan Toronto Regional Authority? The acreage per capita here as compared to other jurisdictions adjoining the province of Ontario, whether it might be Michigan or Manitoba or Quebec? Is there any useful comparative information like that to try to indicate whether we are lacking in providing these types of facilities on a per capita basis in a large urban area such as

Metropolitan Toronto as contrasted, say, to Montreal, or Detroit or Cleveland?

It would be interesting to know just where we stand in this broader perspective—whether we are not moving quickly enough in providing these types of facilities in the large urban areas where the demand is perhaps the greatest on a long-term basis.

Mr. Peacock: Mr. Chairman, Mr. Minister, we have done some studies with respect to the availability of recreational land around metropolitan areas. We did one around Hamilton, I recall, last year, and just for what it is worth, we are a little better off in Toronto than they are in Hamilton with respect to the relationship of population to recreation area. It brings up the open question: if you are going to live in an urban community, how accessible can you expect to have large tracts of land available to you? Ontario by its very nature has got a fringe of very productive land at the south of it, and for this reason it may not be economic to dedicate as large a proportion as you might in some other countries.

Mr. Williams: But I think it would be useful, Mr. Minister. If the information isn't readily available today, I would like to formally request that we do try to assemble some of this information. I think we continually have this criticism levelled that for the population that we have in the Metro area, we are just not providing adequate recreational land facilities at the provincial level through the vehicle of the conservation authorities.

I would like to know, for comparative purposes, whether we are measuring up well or if the criticism is valid if we compare it to other jurisdictions. Perhaps we are not doing too badly after all in the broader perspective. But I think this information would be useful to have. Then, bearing in mind financial restraints and the balancing of other needs and interests—I think it might be helpful to be able to contrast this with other jurisdictions and where they are at, and see whether we are ahead of the game or not keeping pace and so forth.

Hon. Mr. Bernier: I think your suggestion is an excellent one. I am sure within the ministry we could pull together the whole package as it relates to provincial park lands, our reserves, whether we know what the municipalities have.

Mr. Williams: I am thinking more of the large urban areas where there is so much greater demand to provide open recreational space immediately at hand to the citizens—

where they have the need to go out for a day to enjoy the outdoors. I am not thinking of all our stockpile, but only in this type of setting where there are people who can't go afield, who don't have the transportation facilities to go to the conservation authority sites even 30 or 40 miles out of the city, but the ones close in. That is what I would like to try to have some handle on.

Hon. Mr. Bernier: We will certainly give that some consideration. I think it is an excellent idea.

[4:30]

Mr. Makarchuk: Mr. Chairman, I want to get back to the minister's statement about land acquisition. He's saying they're going in the right direction and so on. I think we'd have to take exception to that.

I think some of the problems that are happening that you've noticed or you've received letters about, including from myself, are the overcrowding in parks, the clashes that develop between the younger and the older generation, etc. There were some things raised by the member for Renfrew South (Mr. Yakabuski)—the senior citizens who do not have to work during the week can come in Wednesday and Thursday and pick up the choice sites and, of course, when the fellow who does work and can't get off Friday gets to the park, he finds out that there are really not any sites left.

I think these are the kinds of things that you have to take into account. To an extent, you could help resolve some of the clashing problems or the problems of various groups just not getting along if you had the land, if you could put them apart and separate them and so on. You really haven't got this.

The pressure on recreation is going to increase for various reasons which are quite obvious—particularly the urbanization and the industrialization. In Nanticoke and those areas that are developing, people will have to go someplace. I think you're making a very serious mistake in that sense, that you're going to have bigger problems instead of smaller problems by not involving yourself in land acquisition. Certainly, of course, in the future, as is well documented in the Niagara Escarpment report, you're going to end up paying. Eventually you'll be forced into buying that land and you'll end up paying a great deal more in the future than you would pay at this time.

The other point I wish to discuss with you at this time is the fact that in certain areas, and I'm dealing with flood plain, the land is

considered flood plain and cannot be sold or subdivided, cannot be put into housing, and nothing can be done with it. The people have the land. They feel that perhaps the authority will buy it but the authority is not buying. At the same time the authority is not permitting them to do anything with this land.

I wonder again that in your programme of limiting land acquisition, what in effect you're doing is annoying a lot of people who are waiting and saying, "Look, get this thing off our hands. Tell us what you want us to do with this or permit us to do something with this. If you're not allowing us to do what we want to do with it, then take it off our hands." You do neither. So they sit there and they stew and they get highly annoyed.

Specifically in Brantford, I just wondered if you would consider where the dikes may go. As I mentioned the other day, there are two different areas, or rather two locations. In one location a considerable amount of land will be between the dikes and the river. I feel that perhaps these people should be highly compensated and therefore that may relieve some of the pressure that is there against the authority for putting the dikes where they feel they would serve better than if they put them closer to the river.

Again, these are the kinds of things that with a bit of funding and some understanding you probably will find can be handled a lot cheaper than being forced through under political pressure and so on. Make the dikes longer and try to oblige these people rather than doing it the other way. Tell them, "Okay, we'll be prepared to compensate you either through purchase of your land, or through making up some arrangements in taxation or something," so that they will not suffer losses because of these things.

I'm putting it to you to consider and I hope you start dealing with these things. These problems have not just arisen recently. They've been around for a while. You get them all the time. To let them stew is not the way to administer the province properly.

Hon. Mr. Bernier: The member's comments are well taken and I am very much aware of the situation. In fact, about a year ago we commissioned consultants, MacLaren and Dillon, to do an overall study of the flood plain mapping criteria we're using across the province. Some areas are using a 25-year flood and some areas a 50-year flood; somebody told me the other day they're using a 200-year flood.

Really, I do think the public would expect, and I think they're willing to take, a little bit of risk. We can't protect them from everything for ever.

Hon. Mr. Bernier: I think there has to be a little bit of risk built into some of these things. Maybe we have been just a little too tight and too restrictive in allowing development in the flood plain areas. Perhaps a certain type of construction can go in there, maybe with high basements, provided the individual is made aware that this is the requirement in that particular area and he knows the possibility that every 25 or 30 years there is the danger of a flood. If he knows that, then he may well adjust his building plans.

We are very cognizant of it. But I can't agree with you that it would just take a little bit of money to correct the situation, because when you look at the acres of flood plain lands in the province, particularly in southern Ontario, it's massive really if we went up and started buying up all these lands, it would be rather expensive.

Mr. Makarchuk: I think, Mr. Minister, you should try to establish some criteria. You could say we will permit certain buildings and we will permit industrial development but we will not permit other types of buildings, and so on. Let's get this information out there and let's live by it. But up to this time it seems there is all sorts of hassling and nobody really knows exactly what you can do and what you cannot do. They tried to sort it out, as I mentioned, on the other project and then eventually they say the heck with this. Consequently you are holding up various things.

Hon. Mr. Bernier: I am hopeful that this study, when it comes down—and hopefully it will be down by the end of this year—will give us some handle to the situation, because it is causing problems. There is no question about it. I firmly believe there are many parts of the flood plain areas where you could develop a parking lot—four or five stories—and it wouldn't hurt anything. These kinds of things could be developed. But I share your concern.

Mr. Makarchuk: One other item I wish to discuss is the policy of admission to parks and particularly where the conservation authorities have taken it upon themselves to deny younger people admission to parks. On the one hand you get complaints from the

older people who are complaining about this group that moves in and immediately puts out their hi-fi stereo equipment on two rocks and play what I consider to be—shall we say a conspiracy by the hearing aid cartel? Consequently they ruin the recreation for a lot of people.

But on the other hand, I think with certain restrictions—if people eliminate open radios or open stereos, shall we say—I think this discrimination by ages is not a very healthy situation. I think we should look at them in terms of whether they behave or not. If they don't behave, they get thrown out regardless of what age they are. We should not assume that they are going to be a nuisance. Let's work on the basis that after they are guilty, then we deal with them—not before.

Hon. Mr. Bernier: I think they are taking preventive action. That's the theory they are working on maybe.

Mr. Makarchuk: I don't think our society operates quite that way, in the legal sense. You are not going to charge somebody with the possibility that he may someplace, sometime, do something. I think you wait before he does it. The man is guilty after. We can't assume that he is guilty before. I think we should look at it in the sense of fairness.

Mr. Godfrey: I am sorry, Mr. Chairman, I was absent when you called me before. I did want to discuss with you, sir, and through you to the minister, the West Montrose dam. I am sure you will give me an easy hearing on this, inasmuch as it is in your bailiwick as well as my personal interest.

I did want to establish first that the minister is aware of the details of what I am going to discuss with regard to the West Montrose dam. I understand it is to be constructed across the Grand River, and that it is a 90-foot gravity-filled dam 2,300 feet long. Am I correct in those assumptions, sir?

Hon. Mr. Bernier: It is something like that.

Mr. Godfrey: And this, as I understand it, is a low flow augmentation dam?

Hon. Mr. Bernier: That's right.

Mr. Godfrey: Thanks very much.

As you know there is a good deal of controversy in the area as to whether the dam is needed or not—

Hon. Mr. Bernier: That's putting it mildly.

Mr. Godfrey: Yes, sir. That applies to a few areas in my home town too.

The concern I have has been put to me by a number of environmentalists, with regard to several factors which are going on with the low flow augmentation dam. Presumably that's part of a flood control system, as the previous ones have been. I'm sure the minister is aware of the environmental study which has been conducted, of which I have the summary report here, prepared for the Grand River Conservation Authority. Looking at that I was concerned with some of the conclusions that had been brought forward on page 6, which deals with the environmental impact of the West Montrose dam and—

Hon. Mr. Bernier: Is that the recent report delivered to the municipalities about October 13?

Mr. Godfrey: Yes, this is the one that just came out. I think your Mr. Peacock has a copy of it. It points out that the dam would not seriously affect the economy of Pilkington township. I wonder if the minister is aware of the fact, through the chairman, that the dam and the backup of water very effectively splits Pilkington township into two segments? Surely this would seriously affect the economy of Pilkington township.

Hon. Mr. Bernier: Yes, I'm aware of that.

Mr. Godfrey: So, therefore, you would disagree with the environmental report in that particular respect. It then goes on to say it would not disrupt the social pattern of people in the area. I am sure you're aware, sir, of the social pattern—you most likely have received this literature and I'm merely refreshing your memory on it—that there are four distinct communities affected by the proposed West Montrose dam. These consist of the Inverhaugh residents, the Mennonite culture, the farming community and the Estonian culture. I presume that you would join with me in lamenting the fact that the social pattern of these groups would be disrupted and would most likely be against the environmental report findings in that particular case too?

Hon. Mr. Bernier: I'm just having my first glance at the report right now, Mr. Godfrey, so I don't have the background to comment in detail.

Mr. Godfrey: Possibly I might lead you through it a little bit. As you know, the

Mennonite communities are very strong around that area and they don't transplant that well. They contribute a fabric to our community base which is something to be preserved and envied, and when they're moved it is a very severe blow. I speak of this from personal experience, from the Pickering experience, where we are very sorry the Mennonites have had to move out. This has certainly been a severe blow to our community, what is left of it.

But in addition to that, the Estonian culture there, which is an equally well-bound, stable community, operates a rather large camp in that area. There are some 2,000 people concerned in the community organization of this camp, and putting in the West Montrose dam would spell the end for that.

I don't know whether the environmental assessment was done hurriedly or not, but the number of errors which are in it, or frank mistakes, is rather astounding. For example, when they talk about "would not disrupt the social pattern in the area," there are several large family farms, and I'm sure you're aware of the necessity of preserving family farms. For example, the Musselman farm on lot 2 and lot 3 of Ed Musselman and his family is a very old farm. It will be taken up by the backup of the dammed-up waters, which would seem to me to be a major social impact defect of the scheme. I would hope you would give that your earnest attention to make sure these people are not thrown off their land. There are some 226 people involved in the flood area who will have to move in order to put in this low flow augmentation dam.

The report then goes on to point out that it would result in less agricultural land loss than other dams considered. This is sort of a plus; this is why we should go ahead and build the West Montrose dam. As you know, the suggestion was the dam could be built at other areas as being the last finger of the five-finger exercise which was started a number of years ago. But to put this sort of a statement in a report of environmental impact seems to me to be a sort of Hobson's choice. There is a good possibility the dam isn't needed at all, so therefore, to conclude that in the environmental impact that it would be less damaging environmentally seems to me to be a sneaky way to put in a proposition for a dam.

It says it would make available large amounts of farmland downstream for agriculture instead of their being flooded regularly. This impinges very much on what my colleague was saying earlier, that if proper

diking were done alongside the stream, these lands could be returned to farmland without the necessity of putting in a dam. It also says it would allow more upstream land to be drained and farmed because of increased capacity in the reservoir.

[4:45]

This is simply a statement made out of context. It does not make sense. Obviously if you are going to flood some 4,000 acres of land, you are not going to increase the agricultural land upstream from the dam but you are going to decrease it. We are talking about 4,000 acres of class one and class two farmland which are being farmed actively at present. I am sure the chairman would agree with me on this, that the loss of that is a severe loss to the agricultural community.

It points out the adverse affects of the project would include loss of habitat for some species of plants and animals. I find that planners and environmental assessors always throw that in. That's sort of a motherhood phrase. They sort of put that in so that you are aware of the fact that they are for animals. Then they point out there is an unsightly reservoir drawdown zone at some period of the year. This is a very elegant statement for the fact there will be a very large mud flat over the 4,000 acres.

The question arises as to whether they have checked with the Minister of Health (Mr. F. S. Miller) about that large mud flat which goes with that type of drawdown because, as you know, we have just spent a lot of money on mosquito control in the province and we have mosquitoes still. When you have a large mud flat, of course that causes a lot of mosquitoes coming in. I notice you are nodding your head in agreement, so I know you are going to vote against this dam when you have the opportunity.

Hon. Mr. Bernier: If I may just put a point in, as I understand it, this report here is just phase one. There will be phase two coming forward which will incorporate information received from the public. Hopefully, it will correct some of the deficiencies to which you are referring. I am pleased you are putting it on the record because we will make sure your feelings and your comments are made known before phase two is developed.

Mr. Godfrey: I agree, sir. If you will go by the response you get from the republic—

Hon. Mr. Bernier: Careful, that's tomorrow.

Mr. Godfrey: —the public, and the republic too, I would be happy to accept it because

so far the public who have been most concerned about this—I am speaking about the public—are people who feel they are personally involved from an environmental and conservation standpoint. The problem with these citizen participation meetings is, as you are very well aware, most people are issue-oriented and unless it affects their front door they don't come in. For example, the first citizens' participation meeting was held in Galt and there were six of the public present. That's what it comes down to. They were outnumbered by the staff who were running it, and very highly paid for running it.

I appreciate your statement that this is a first but it has the inevitability, once something goes on paper here, that it's sort of carved in stone and it's difficult to erase. I would go on from that, in view of this environmental report, and draw to your attention the following statement which I would read into the record:

"The Grand River Conservation Authority has been too oriented to structural or technological solutions in water management. They have neglected more comprehensive alternatives, such as flood plain management, conservation policies to limit water use, as well as the possibility of setting limits to regional growth."

This is from a study that was made at Waterloo College last year. This is a fairly severe indictment of the operative principles which go with the conservation authority, and there may possibly be a defence against it, but I think this was made on the basis of a fairly profound investigation of how GRCA was looking at things. We must realize this dam was recommended some five years ago in the master study that came out at that time, and we seem to be proceeding inevitably to fulfil that plan without necessarily thinking back on whether the plan should still be operant or whether it could be modified to a certain degree.

I don't know whether you have any comments to make on that statement. Do you think the GCRA has been too oriented to structural or technological solutions in water management?

Hon. Mr. Bernier: In view of the problems that occurred in Cambridge and the problems they have had over the past couple of years it's hard to say that they have been overly leaning in this direction.

Mr. Godfrey: I see.

Mr. Makarchuk: Just on that point, I think we have to bear in mind the fact that in

Cambridge they did absolutely nothing in terms of trying to protect themselves from flooding. In Brantford they did to an extent but they were limited in their resources as to what they could do. The damage in one part of town was caused because the dike was really inadequate and broke through which flooded an area and also knocked out the water plant. The other area is where we have this contentious issue right now. If the dikes we are discussing right now were in place then, then Brantford would not have had a flooding problem.

Mr. Godfrey: I think my colleague has spoken about one of the things I was going to mention in a moment. It comes back to the orientation of the conservation authority and how they propose to manage things by proceeding inevitably to build a dam which cost \$30 million.

Hon. Mr. Bernier: The bulk of the members of the conservation authority, of course, come from within the area.

Mr. Godfrey: Yes, sir.

Hon. Mr. Bernier: They're local people; let's be honest. The number of provincial representatives in there is relatively small compared to the overall number of municipal representatives in there.

Mr. Godfrey: I am certainly not suggesting that we should interfere with any local affair—

Hon. Mr. Bernier: I was hoping you were not—

Mr. Godfrey: By no means.

Hon. Mr. Bernier: —suggesting they should do things because we were saying so.

Mr. Godfrey: Absolutely not. On the other hand, you might turn to your colleague on your left, the hon. member for Wellington-Dufferin-Peel (Mr. Johnson), who has written a letter to Hon. George Kerr on June 9, in which he states he is very much opposed to the building of the proposed West Montrose dam.

Mr. Vice-Chairman: I just repeated it in this room.

Mr. Godfrey: Thank you very much. I assume, Mr. Chairman, you also sent a similar letter to Mr. Bernier. I don't see a copy of that, but I hope he acknowledged it to you.

Mr. Vice-Chairman: Well, you will get it later.

Mr. Ruston: It will be in a brown envelope.

Mr. Godfrey: Thank you very much. Just going along the train of thought I am trying to develop and which has been partially alluded to earlier, I would read you another quotation from the Independent, which is one of the local magazines that has some influence there. It stated on May 12, 1976:

"The real danger with the proposed West Montrose dam is that it will be built with great fanfare as a flood control measure, but the net result will be no more, and possibly even less, actual flood storage capacity than at present because of the increasing demands for summer flow augmentation."

Do you have any thoughts on that? That is a pretty damning indictment of building a West Montrose dam.

Hon. Mr. Bernier: I understand there are three purposes for the reservoir itself. The first is flood control; the second, to which you referred, is low-flow augmentation during the dry months; and the third is water supply to the middle Grand River, including Waterloo and Kitchener. So there will be three distinct purposes.

Mr. Godfrey: Thank you. Mr. Chairman, does the minister actually think a dam can do three things at once?

Mr. Wildman: Damn good dam.

Hon. Mr. Bernier: I don't know. The dam is not built yet to find out.

Mr. Godfrey: Mr. Chairman, we already have dams that are built. This is a low-flow augmentation dam, and the minister knows very well what a low-flow augmentation dam means. It means that in the height of the flood season, that dam is pretty well loaded and really does not give protection against floods. He has told me he wants to build a low-flow augmentation dam. If he wants to have it for recreation, fine—and I would appreciate that—but this dam is being built for flood control. Surely he cannot have a dam do three things, and I would like clarification as to what type of a dam he is trying to build.

Hon. Mr. Bernier: No, I might have to disagree with you on that. I think maybe a dam could perform those three functions.

Mr. Godfrey: Well, I will accept that. Now, we'll turn to the inquiry which took place into the flooding on May 17 of the mighty Grand River. I turn to the evidence that was turned up at that particular time, and to page 13 of a popularization of the account, which is taken verbatim from the record.

In cross-examination by Copp, he asked of Mr. Bauer, who was one of the functionaries in the GRCA—I won't read all of this. I am sure you know all of this by heart; you read it every night, I am sure.

Hon. Mr. Bernier: Oh, yes, before I go to bed.

Mr. Godfrey: The simple thrust of the whole questioning was to point out that at that time those dams were not used for flood control. The dams were full at the time the crest of water was expected, and the effectiveness of using them for flood control had been negated because they were used for other reasons—recreation and low-flow augmentation.

I won't belabour the point, but I would point out that if we are going ahead to build the West Montrose dam at a cost of \$30 million, at a cost of flooding 4,000 acres of farm land and at a cost of disrupting 226 people, we must have a very good reason for that. I haven't heard the reason yet from the minister. He tells me we are going to build a three-way dam. I am not a hydrology expert, but I can read what is in here and I can read the expert testimony that came forth. It is quite obvious that he is asking for another flood, if the same conditions occur again, if he is going to put in a low-flow augmentation dam.

Hon. Mr. Bernier: With all due respect, Mr. Chairman, I'm not saying the dam could do those three things perfectly. But I'm sure it will lend weight and support to those three issues—flood control, low-flow augmentation and water supply. In view of the information provided me, I think it would well do those things. But, as I said earlier, the project has not been approved and no financial commitment has been made by the province at this time.

Mr. Godfrey: I appreciate that very much, Mr. Chairman. I realize a commitment hasn't been made yet. The purpose in me being here is to draw to the minister's attention that the information that may have been given to him may not be 100 per cent gold. That's what it comes down to. There may be a little base metal in some of that information.

For example, Mr. Bauer of the GRCA replied to a question on page 14 of the document I've just cited. The question was: "Mr. Bauer, if I understand your evidence, you consider low-flow augmentation more important than flood control at the Shand and Conestogo dams. Is that right?" The answer:

"Well, it's more important in the total operation in the total facility."

As long as we have the GRCA operating on that particular stand, we are not building a dam for flood control. I'm going to come around to that before I end and find out why this dam is being considered.

If I could proceed from that, we have another statement in here where it was pointed out—and here is an interesting variation on Loto Ontario or whatever we call the lotteries we're so taken with at present in order to get us out of jams—and I quote: "An annual calculated risk by the Grand River Conservation Authority has led to flooding at Elora Park and Conestogo." Now that's taken out of context, I agree, but that is the sentiment which was brought forward by the cross-examiner at that time and could not really be contradicted.

I pass on then as to whether there has been suitable exploration of other alternatives instead of building a dam. At that time, the member for Brantford (Mr. Makarchuk), who has just left the meeting, was an alderman of the city of Brantford. He pointed out then, as he has done today—and I quote from page 43—that there has not been suitable development of other policies that go along towards controlling floods. The diking, which he mentioned before; the use of other dams for flood control rather than low-flow augmentation, which use then leads to the need of this dam; and the channel improvement and conservation areas upstream from the area where the flooding might take place—all are reasonable alternatives which should be very thoroughly investigated.

This environmental impact study, which I've just mentioned, in its first stage certainly does not consider any of those alternatives. It's highly unlikely the citizens of that area are going to be able to mount enough wit as it were during the ongoing public participation trials to be able to suggest and make stick all of these things. These environmental impacts are being done by a group of highly paid consultants, and I don't think the company that is executing this environmental impact has ever advised anything but building—and usually it's dams; that's sort of what they do best, so they advise that always. These public inquiries are being conducted in the usual unfair, adversary manner in which private citizens are being pitted against government and other types of paid employees.

Coming back to the decision that was made five years ago we see the tremendous local response which has gone on. I need not read you all of the documents which are there;

I've already read you the prestigious document from Mr. Johnson, and the mayor of Pilkington has pointed out that it will destroy the community and the county.

We come then to the very pertinent question as to why the dam is being built. I would like a frank answer from the minister, if I could have it, Mr. Chairman. If the dam is being built to control floods, it cannot be a low-flow augmentation dam—and I'll be ready to cross swords with him and his experts on that at any future occasion if, with respect, he wishes to deny that. If it is being built to provide sufficient water flow in order to take care of sewage downstream as a result of all the industrial development which is going on and is planned for that area, then I can accept that. But I want him to let the people of that area know that this is why it is being built.

[5:00]

If that is the reason it is being built, then I think those places downstream, as Mr. Makarchuk has just pointed out, have a very strong, personal responsibility to make sure that they've taken all of the precautionary measures which have been mentioned before the dam is built. May I have some sort of an indication as to what sort of a dam we're building?

Hon. Mr. Bernier: I do admit that there is nothing before us in the form of a proposal or anything we can look at. I understand that the local conservation authority is doing a cost benefit study of the whole situation. The environmental assessment is going on now. I think you might be premature in bringing these arguments and these questions before us today. They may be more properly brought to the conservation authority at the local level.

Mr. Godfrey: Thank you, I appreciate those remarks and realize that our party is always premature and has an ear to the ground far in advance of anybody else. I would, however, ask, if nothing is being done about this why is the GRCA buying all this land on the dam site. What are they going to do with it?

Hon. Mr. Bernier: It's likely all of the flood plain; that's the only answer to that really.

Mr. Godfrey: No, this is not flood plain; and I'll be happy to show you the map. That is not flood plain, that is backup from a dam which you have just mentioned. We have definite specifications of the dam which

you agreed to in the first part of my conversation. We're talking about a 4,000-foot dam, 60 feet high. Now these may be propositional dams, but I have a feeling of inevitability that with this first stage being over that we are well on the way of putting in that dam.

I won't push you on this. I think I've been a cinder in your eye quite long enough right now. But I do want to have a solid commitment from the minister that he's going to look at this, hopefully with fresh and open eyes.

Mr. Yakabuski: I've just got a couple of questions. It seems that when conservation authorities were first established their main purpose and objective was to control flooding on certain waterways, etc. They grew and grew and more and more performed a larger and larger role. In some instances they have the flood control matters well under control and are branching off into recreation, parks and that sort of thing. I was just wondering if perhaps it's time maybe they fell under the authority of two branches, the parks and recreation branch and the conservation authorities branch. I think we're confusing the issue sometimes because much of the money going to the conservation authorities is really going for recreation and parks. Maybe we should be concentrating the conservation efforts still in the flood control area, flood plain mapping and things in that area, and segregating more. There are other activities.

I'm not condemning their other activities. I think they are to be admired. I don't know what the 2.25 million people of this city would do without the Metropolitan Toronto and Region Conservation Authority. I think they do a remarkable job in providing recreational space and activities for so many citizens in this area and on a smaller scale similar activities take place in other conservation authorities. But I think the moneys are all coming under the conservation authorities' budget and perhaps we should be coming to a time maybe when this should be segregated whereby there are certain thrusts. And I think our main thrust has to be flood control. When necessary we can branch off into some of these other activities too. I was just wondering what the minister's views might be regarding that situation?

Hon. Mr. Bernier: I can see your point of view, Mr. Yakabuski, on this particular issue. I just want to relate to you that in the

work of flood control and water management, recreational lands lend themselves very well to that type of programme.

Mr. Yakabuski: One leads to another.

Hon. Mr. Bernier: Yes, one leads to another, because as you're developing certain programmes for flood control and for water management, you have land that has relatively no other use. It can't be built on but it can be developed for recreational use, and as you correctly point out, they've done a tremendous job.

I think in our view of the situation, the direct purchase now—in fact I have to admit that I've turned some applications down already. One in northern Ontario that came to my attention—and of course I have to approve them all—was for the direct purchase of a park that was owned by another group. To me, with tight dollars and restraints on, I saw no relation to water management or water control or anything related to what, as you pointed out, the conservation authorities were set up for in the first place. So I turned it down. Six months later the chairman came to me and he congratulated me. He said, "You know, you did the right thing. But I was under pressure at the local level because grants were available in this direction and certain people in the city felt that that was the route to go. They could get 50 per cent for the purchase of these recreational lands, and politics being what it is at the local level, I went along with it." But he did come around and thank me for turning him down.

Mr. Yakabuski: Do you feel the conservation authorities should be really dealing with two branches of your ministry?

Hon. Mr. Bernier: No, I don't know if I would go that far. I think that would just add to more confusion really. I have to say with a great deal of respect that the conservation authorities branch has been kicked around this government for the last 10 or 15 years. We had some concern when they were transferred to the Ministry of Natural Resources, in making them feel at home and welcome. They have a large budget. They felt that maybe they would be in conflict with our parks department in developing their recreational desires against ours. But now we've got that sorted out and I think it's working very well. It's matching in, it's dovetailing excellently. They're making use of the resource people in Natural Resources, be it for parks or flood plain developments or any other land problems. I think we've made a great step forward in getting these problems ironed

out and getting a smooth float. But to have it changed again I think would not add anything to their programmes and to their contribution to the province.

Mr. Yakabuski: Yes. I'm assuming—

Mr. Wildman: A point of order, Mr. Chairman. While I find this dialogue rather interesting, I wonder if it really is in order to have the parliamentary assistant to the minister carrying on a dialogue here during the estimates when there are many other members who don't have nearly his opportunity to speak to the minister. I'm sure he has other opportunities to discuss these matters with the minister.

Mr. Yakabuski: I have fewer than you have.

Mr. Ferrier: You mean you have an Eisenhower-Nixon relationship?

Hon. Mr. Bernier: No, certainly not.

Mr. Haggerty: You're not suggesting Wat-
ergate, are you, Bill?

Mr. Ferrier: No, no; Ike never had Nixon up to his apartment or anything. I'm thinking this is maybe going on here.

Mr. Yakabuski: Well, then I say to the chairman, is the hon. member suggesting a parliamentary assistant is to sit here and not participate whatsoever?

Mr. Wildman: No, that isn't it at all. I'm just wondering if perhaps this, which is certainly not controversial, could be dealt with at another time. But if you're leading to something that is going to bring down the ministry, go right ahead.

Hon. Mr. Bernier: That's your goal? That's your only goal? The lust for power is so strong.

Mr. Ferrier: Paul asks all the embarrassing questions of the ministers in the House. They shudder when he jumps up and asks a question.

Mr. Vice-Chairman: Mr. Yakabuski: is a member of the resources committee and he's entitled to—

Hon. Mr. Bernier: Free and open discussion by all members of the committee is what I encourage.

Mr. Bain: Surely the minister accepts that general questions of information that could be better discussed with people over the telephone—

Mr. Ferrier: Information that could be garnered by reading the excellent pamphlets that your ministry publishes. That's where he should get that information from. The committee is dealing with matters of policy, and should deal with substantive issues.

Mr. Yakabuski: Mr. Chairman, on a point of order: If that were to be the case, there would be no questions in the House by private members whatsoever, because they have access to the kind of information they seek during the question period by telephone, by mail, verbally or otherwise.

Mr. Bain: That may be true of the questions asked by government backbenchers.

Mr. Vice-Chairman: Order please.

Mr. Yakabuski: What the member suggests is that the—

Mr. Makarchuk: Speaking to that same point, Mr. Chairman, I think there's an understanding what the parliamentary assistant to the minister is supposed to do. Surely it is not for him to carry on a conversation with the minister during the estimates. The assumption is that you know what is going on in that department and for that you are getting paid. If you prefer to ask questions, perhaps we could suggest that you forfeit—what is it?—your \$5,000 extra a year in that case.

Hon. Mr. Bernier: I think I have to take exception to that, Mr. Chairman.

Mr. Yakabuski: Bring the matter up during question period and I will take it to the committee of the Legislature.

Mr. Vice-Chairman: Mr. Yakabuski, will you carry on?

Mr. Yakabuski: Well, in view of the attitude of certain members of the committee I feel it perhaps is not proper to carry on at this time. I am going to pursue it in the way of the question period in the House, because then I think the same thing applies.

Interjections.

Hon. Mr. Bernier: I want to thank the member for Renfrew North for his very valuable contribution.

Mr. Gaunt: Mr. Chairman, I just wanted to make a few comments with respect to flood plain mapping. I wanted to determine what the current status was in relation to the committee that was set up.

I believe the committee is going to report or has reported just in the last week or so, or will be reporting in the next week. The report is imminent, I understand.

Hon. Mr. Bernier: That's right. It is before the printers right now. As soon as we have it, we will be dealing with it immediately.

Mr. Gaunt: I just wondered, I haven't been the most enthusiastic supporter of flood plain mapping throughout and I just wondered if the minister saw some changes being enacted or flowing from this particular report. I see the value of flood plain mapping but it's the application of it with which I have disagreement in certain circumstances—not all, but in certain circumstances—and I feel that the ministry should make some changes in direction in that regard.

I can see the value of having flood plain mapping that is set up on the basis of areas that flood periodically, maybe even every year, certainly every five years. I can see the validity in having one zoning for that kind of circumstance. But I also see the validity in having another zoning where the lands are low-lying and where there could be the possibility of flood to the property involved, but where flooding has not occurred, perhaps in the last 20 years, perhaps in the last 50 years, or perhaps never. I just wanted to find out in just what direction the ministry intends to go with respect to this matter.

Hon. Mr. Bernier: As the member has correctly pointed out, the report is imminent. My understanding is it is before the printers now. It is my hope to get the report as quickly as we can and deal with it within my own ministry and then to meet with the Minister of Housing (Mr. Rhodes). He of course, is very interested in where we're going with the report.

I have not seen the report or what is in it so I will be looking forward to it with a great deal of interest. But the whole purpose of setting up the committee in the first place was to get, hopefully, some change in direction — something that we could justify a change on, something with which we could maybe relax and get a new outlook on the whole area of flood plains.

I have to agree with you, really, 100 per cent. With some of our 100-year floods—now somebody told me we had a 200-year flood, which came as a bit of a surprise to me—I think we have to build in a certain amount of risk, really. I don't think we can afford to protect everybody from everything. I think if the individual is made aware there is a

certain risk within a certain period of time, then he should be willing to go ahead on those grounds.

I can assure you that we will deal with it as quickly as we can because we want to get at the root of the problem. We want to relax some of the restrictions and I think the conservation authorities want some direction, there is no question about that. So we will get on to it as quickly as we can.

[5:15]

Mr. Gaunt: Yes. If I may pick up on the last point, I really believe that the conservation authorities do want some direction. I think they are struggling with this programme and I think they are searching for a little direction and support, and it's warranted in respect to this programme. I have one subdivision that has been on the go for—

Mr. Haggerty: Are you the developer?

Mr. Gaunt: No, no, in my constituency. I have no financial interest or otherwise in it, other than the fact that the chap is a constituent of mine—and he may or may not be a supporter, I have no way of knowing that.

Mr. Ruston: They are all your supporters.

Mr. Gaunt: In any event, that subdivision has been going for almost eight years and I believe its draft approval runs out the end of this year. The whole thing turns on this flood plain mapping. Part of the property in question is in the so-called flood plain. He says it has never flooded in history and maybe he is right, I don't know. The only thing I can say is that the land is fairly low and if it were to flood I'm sure half the town would be under water. That is only one instance where we have a problem with this thing. There are other cases where people's property has been frozen, so to speak; they can't get a permit to build a car port on the side of their home because it is in the flood plain; all of these things. Many ramifications flow from this particular programme and I think the sooner we get it down pat and get some definitive guidelines whereby the conservation authorities can move forward with the programme and sort out a lot of these other tag ends, as it were, I think the better off we will all be. I certainly hope that will be done in the next month or so.

Hon. Mr. Bernier: I appreciate your concern, because we have talked about this on a number of occasions and we are anxious to resolve it just as quickly as we can.

Mr. Ruston: I was just reading an article here in the Windsor Star of October 26—and I have heard some rumours about it for some time in the area—about the Hillman Marsh on Lake Erie and the Ford Marsh on Lake St. Clair. Has there been up until now any discussions with your ministry and people from the federal ministry as to a joint project to purchase these two properties—the Hillman Marsh, and Ford Marsh, which is near the Bradley Marsh on Lake St. Clair off Kent county?

Hon. Mr. Bernier: I am not directly aware of it. I will ask Mr. Peacock to comment on it.

Mr. Peacock: I am not aware of any serious discussion. Is this what the conservation authority was talking about?

Mr. Ruston: No, it was the province and the federal government. You are not aware of it? This has been talked around some and probably the newspaper just wrote it up but I have heard of it. We have heard of these areas that may be available. They are talking close to \$3 million on both projects, so they are large projects.

Hon. Mr. Bernier: Mr. Foster, are you aware of something that is going on there?

Mr. Foster: Mr. Chairman, with regard to the Ford Marsh, I understand that Canadian Wildlife Service and National Parks Service are looking at that as a possible trade-off with Pelee. Those discussions are going on, but there is nothing being discussed so far as this ministry is concerned directly.

Mr. Ruston: I don't know if you are aware, Mr. Minister, that your own property in Essex county has been under water for a number of years, the famous Tremblay Park, and now that Lake St. Clair has decided to go back down again, do you have any plans to try and reclaim that property so that maybe if the water was to go back up at some later date you might be able to protect it and that way make use of the property? Do you have any plans as to how you might be able to bring it back into use?

Maybe I could add that there have been some reports you may be interested in turning over that particular property—I think there are only 50 or 60 acres in it—to the conservation authority in the country. I think I read some place that the idea was presented to them but I don't think they were too happy, maybe because of the cost it would involve to try to make it into a park. The property has been under water a number of years. There

was a beautiful set of trees and everything there, but the high water in 1973 went over it. They tried a small clay berm, but it went down the drain too and the property has been under water ever since. At this time, the water has gone down to the point where we might be able to reclaim the property and protect the front. We all realize, of course, that this is going to cost some money.

Hon. Mr. Bernier: Mr. Foster, I think, could give us some information on that.

Mr. Foster: Mr. Chairman, we have been discussing the possibility of turning this area over to the conservation authority or the local municipality. We have also looked into the possibility of a private individual operating the area. The difficulty with the site is access. We really don't have proper public access. The access is over a private road and this is one of the difficulties that would have to be sorted out. But the area is really too small to consider as a provincial park.

Mr. Ruston: Then what advantage would there be in turning it over? Would you make it a day park or something?

Hon. Mr. Bernier: It would be for day use, yes.

Mr. Ruston: In these cases where you are turning property over to a conservation authority, do you use the usual fee of \$1?

Hon. Mr. Bernier: Yes, it is very nominal. I think \$100 is our minimum transfer cost now.

Mr. Ruston: It is kind of too bad because I think the property actually had one of the best beaches in Essex county. I recall the specific day that the former minister, Mr. Brunelle, visited the site; at that time the water was down and there was a beautiful beach and a beautiful set of trees along about 1,000 feet of frontage on the lake. People have continued to live there, but many of them had to put up steel breakwaters and different things to protect their properties. Some others just put berms out in the water on slight angles and managed to preserve their properties that way.

I sometimes think it might be a good idea if we used that property to experiment with types of systems we could use to control the shoreline at high water times. We have a spot there where, it seems to me, we should be attempting to experiment with berms or something similar. Berms are used in many parts of the southern United States and they

seem to work. Some of the residents who live along the lake have been there for 50 years back—in some cases their families go back 100 years or more in that area—and some of them have faith that this type of thing could work where you have got a wide enough beach to make use of it. You can't do that in an individual lot system but, where there is the size of property that we have there, I would like to see the province try two or three berms to see what would happen along that beach. I just feel we are just not doing anything at all and such an experiment might provide great input to knowledge we could use in the future.

Hon. Mr. Bernier: It might be an area we could look at. We will take your suggestions into consideration.

Mr. Ruston: Thank you.

Mr. Vice-Chairman: Mr. Mancini?

Mr. Mancini: Mr. Chairman, I have two or three questions I would like to direct to the minister. The first question concerns the new full-time man who has been hired recently by the Essex Region Conservation Authority; it concerned me a great deal because many of the local residents in the county of Essex had applied for the job. I believe it said in the paper that the hiring would be done through the conservation authority. I have been told—and I'm sure if this is the truth, Mr. Minister—that this new man was hired through Natural Resources because part of his salary would be paid by your ministry. I was wondering if that was true or not.

Dr. Reynolds: I don't know the answer to that one, Mr. Mancini. Maybe Mr. Foster knows how that is being handled.

Mr. Mancini: I believe the man's last name is Howard.

Mr. Foster: Mr. Chairman, as far as I'm aware, the job was filled by the conservation authority selecting who they felt was the best applicant. The person chosen was Mr. Bryan Howard, who formerly worked for the Central Lake Ontario authority out of Oshawa. He worked for that authority, not for the ministry.

Mr. Mancini: I don't believe you understood my question. First of all, I've seen Mr. Howard's résumé; I would have to say he's an outstanding candidate for the job. But the fact of the matter, the way I understand it, was that the conservation authority was going to do the hiring and not

Natural Resources. Now I've been told that it was Natural Resources that did the hiring because it's your ministry that pays part of his salary and not the conservation authority. I'd just like some clarification on that.

Hon. Mr. Bernier: Do you have a comment, Mr. Foster? Do you want to check on that?

Mr. Foster: Correction, Mr. Chairman. We supply the resource manager for the Essex authority. He's a ministry employee seconded to the authority. The Essex authority participated, I suppose, in the selection of this individual. Normally we discuss with the chairman of the authority the appointment or placement of a ministry employee. Bryan Howard was taken back on ministry staff from employment with the Central Lake Ontario authority.

Mr. Mancini: So is he then hired by Natural Resources? Is this what I'm being told?

Hon. Mr. Bernier: In this case, yes.

Mr. Mancini: This disturbs me somewhat, because the ads in the local papers did not read that way. I had several complaints about this and I'm just trying to check to see if the complaints are valid. Since Mr. Foster has said they are, I would hope that in the future, when the conservation authority say they're going to hire a person, that they do it themselves and not have the Natural Resources people bring in someone from 250 miles away. There were a lot of disappointed people in the county of Essex who knew the area very well and, I'm sure, could have done a very capable job. This is nothing against Mr. Howard, because, as I've said, I've seen his résumé and he certainly is an outstanding candidate for the job. But maybe we can keep that in mind for the next time.

Hon. Mr. Bernier: We sure will.

Mr. Mancini: A couple of other things: Since the southern half of the county of Essex borders Lake Erie, and since there is a great deal of erosion there, I was wondering if your ministry was making money available to this conservation authority so they could either lend it out at a low interest rate, or a rate better than the bank rate, so that the unfortunate homeowners in the area can fix up their land and preserve it. I was wondering if your ministry was doing anything in that regard.

Hon. Mr. Bernier: There were a number of programmes developed along the lines to which you refer to assist in the erosion problems of Lake Erie. Mr. Peacock, do you have all the details, or would it be Mr. Giles? I think he was one of the key people and the experts in the programme.

Mr. Giles: I wonder if I could have the question again, please, Mr. Minister?

Hon. Mr. Bernier: The programmes that were designed to assist in the shoreline erosion problem of Lake Erie as they relate to the conservation authority programmes—were funds made available to the conservation authority?

[5:30]

Mr. Giles: To the Essex Conservation Authority; there were funds made available by the Ministry of Agriculture and Food, through a programme funded jointly by the federal government and the provincial government to construct some dikes in the agricultural portions of the area covered by Essex authority.

Mr. Mancini: I think I recall the money that was made available for the dikes but my question is about the home owners who live along the shore of Lake Erie. Are any moneys being made available there?

Mr. Giles: This is a separate programme funded by the provincial Ministry of Treasury, Economics and Intergovernmental Affairs which makes money available to the municipalities which, in turn, can lend it to the property owners at an interest rate of, I believe, eight per cent. It's repayable over a 20-year period on an annual repayment basis.

Mr. Mancini: Would the local town or township have to apply to the ministry or to the conservation authority for this money?

Mr. Giles: No, the conservation authority isn't involved in this programme at all. The municipality passes a bylaw saying they'll go into the programme and then applies to Treasury and Economics which, in turn, provides the money.

Mr. Mancini: I see. What's the limit of the money?

Mr. Giles: What do you mean?

Mr. Mancini: For the town or township.

Mr. Giles: Rather than for an individual?

Mr. Mancini: Yes.

Mr. Giles: I don't think there's any limit on the amount of money which can be made available to a town or township, but there is a limit on the amount of money which can be made available to an individual; so it could be added up, I suppose, to what the maximum might be, based on the amount of shoreline there would be in a municipality.

Mr. Mancini: I see. Thank you. I'm satisfied with that. I just have one other question.

This is regarding a problem we've had or, I should say, a problem one of my constituents has had since last January 16 when I first wrote to you about this. It has to do with some property along the Matchette Road area, the Pitcom and Matchette Road area. I believe there's some prairie grass in that area and a local construction firm which has a very good reputation in our area owns this piece of land. It is already registered for a subdivision—the firm already has the agreement—it's been registered since 1929.

You also might like to know that the property's top soil was scraped off approximately 20 years ago but over the period of years, I believe, this prairie grass has come about. The college and this construction company had got together and they were going to have a class for heavy construction work and for the training of young people. However, the local conservation authority put pressure on the university, and because this pressure was recorded in the paper and it really got blown out of proportion, the college withdrew its support to have the class. You answered my letter on February 4 and you said:

"I should emphasize that while this ministry is very concerned about plant communities in the Ojibway area it is not our intention to directly interfere with private landowners and the use they make of their own land, providing that it concurs with zoning and regulation requirements."

After I received your letter, I brought this to the attention of the construction company, the university and the conservation authority. We told them point blank that if they couldn't afford to buy the property then let the people who owned the property do what they want with it. We're meeting quite bitter resistance.

I wrote to you again on June 30 and I explained that in my letter. Then I got another response from you, Mr. Minister, in which you said:

"As you will appreciate I am in no position to speak for the actions of the authority staff. However, I am taking the liberty of forwarding a copy of your letter and my reply to the chairman of the conservation authority.

That was in July, 1976. Things have progressed but we haven't been able to hold the class. The construction company wants to hold the class and the college wants the class but we are just at a roadblock here with the conservation authority. They have my letter, they have your letter and they say they can't afford to buy the property; yet when we try to use it they're there, ready to block us. I was wondering if your ministry could set this straight?

Hon. Mr. Bernier: When it comes to prairie grass, this would be disturbed land; as you mentioned it was disturbed some time ago. We made a very substantial purchase of a piece of property in the Windsor area, right in the city of Windsor.

Mr. Mancini: Yes, this area here.

Hon. Mr. Bernier: Is that the same area?

Mr. Mancini: Yes, very close.

Hon. Mr. Bernier: It was to protect that unique sporting area for Windsor prairie grass and I don't know how we could justify a further purchase, really, or an additional purchase. If they want to hold a class, why couldn't they hold it in the area we have already purchased?

Mr. Mancini: Why couldn't this construction company hold the class in an area that you have already purchased?

Hon. Mr. Bernier: Yes. If they want to hold a class—it's a study class you are referring to, is it?

Mr. Mancini: It's a class to show young people how to use heavy equipment.

Hon. Mr. Bernier: Oh, I see—not looking at the prairie grass?

Mr. Mancini: No.

Hon. Mr. Bernier: We would have to hear from the conservation authority on what price they placed on the purchase of the land. If you had been here earlier for our discussions during the afternoon—

Mr. Mancini: I can't be at the Hydro debate and here at the same time.

Hon. Mr. Bernier: —it's fair to say we were discouraging the outright purchase of land for uses other than flood control or water management. I indicated I had directed a letter to all the chairmen of the conservation authorities asking them to review their own priorities within their own conservation

authorities and to put all the emphasis in the direction of water management and water control. Land purchases for recreational needs should be reviewed very carefully.

I indicated that I have turned down already a request to purchase straight park land and we have deferred moneys for some administration buildings, to give you an example of how we are tightening up and how the constraints are affecting us. This is maybe one area we have to look at in that same vein.

Mr. Mancini: Yes, but what can you, as minister, do about this particular situation? I am using this situation as an example because I am sure there are many more situations across the province which are similar to this. People want to use the land they own even on Pelee Island with the problems we are having there.

People want to use the land they own but your conservation authorities and your ministry are telling them they shouldn't use it because we should preserve it. I don't really think that is a bad idea—to preserve the natural resources we have—but not to preserve them without properly compensating the people who own the land. These people who own this particular piece of land can, today or tomorrow, start to build a subdivision on it.

Hon. Mr. Bernier: What is the problem? Is the conservation authority saying it is in the flood plains?

Mr. Mancini: The conservation authority is saying that because of the special grass there this property should not be disturbed.

Hon. Mr. Bernier: I would be prepared to take it up with them.

Mr. Mancini: I wish you would.

Hon. Mr. Bernier: I don't think we could really justify using more public funds to buy more prairie grass land—

Mr. Mancini: Maybe you could check—

Hon. Mr. Bernier: —and I think we ought to get that message across to those people there.

Mr. Mancini: My first letter was January 16 and my next one was June 30. Maybe you could check my letters and your replies and we can get this straightened out.

Hon. Mr. Bernier: Yes. I would be glad to take that up with them.

Mr. Mancini: Can you answer me in a letter?

Hon. Mr. Bernier: Yes, we will get back to you. As I said earlier, if it is a disturbed area, then it has not really got the type of conditions we would be looking for to preserve when we have an area already.

Mr. Mancini: It was disturbed some 20 years ago. I don't know how recently—

Hon. Mr. Bernier: We will have another look at that.

Mr. Mancini: Thank you very much, Mr. Minister.

Mr. Makarchuk: I want to get back to the Elora Gorge. I have received this On the Grand publication put out by the Grand River Conservation Authority and it says—I wasn't aware of this earlier—that they are going to request the Minister of National Resources to act on their request to transfer their required 1,229 acres of land in question to Wellington county. Have you received this request and how are you disposing of the request?

Hon. Mr. Bernier: It has come to the region, I am told, but we haven't seen it here yet.

Mr. Makarchuk: You haven't seen it? Your information, in other words, is that what you are going to do, as you mentioned earlier, will be in consultation with the other departments, MTC, Ministry of the Environment and so on; and you will certainly keep us informed of what you intend to do on it.

Hon. Mr. Bernier: All the way.

Mr. Makarchuk: We will be on your back.

Hon. Mr. Bernier: Total public disclosure.

Mr. Makarchuk: Confession is good for the soul.

Mr. Haggerty: I have one question. I would like to have an explanation on the cost involved in the Lake Ontario waterfront programme. What does that consist of? It's over \$1.5 million.

Hon. Mr. Bernier: We have a list on it here. We put it on the record a little earlier, but maybe Mr. Peacock can go through it again to give you an idea of what the programme is all about, and why this figure is listed the way it is.

Mr. Haggerty: Is it special assistance to certain communities or municipalities?

Hon. Mr. Bernier: It was a 10-year programme that we changed to five years. It was to be \$1 million a year, and I think it is up to \$2 million a year. Last year, we advanced some assistance to the Metropolitan Toronto Conservation Authority and this is a readjustment of those figures. That might be a little rough but—

Mr. Peacock: The question was, what is being done with it?

Mr. Haggerty: Yes. What is the money being spent on?

Mr. Peacock: This is a 10-year programme to develop the Toronto waterfront for access for the public and to provide moorings for small boats and this sort of thing; the creation of peninsulas really at various stages along the waterfront. It is utilizing fill from the construction process in Toronto—the fill that came out of the Spadina subway, for example—and it's creating new land.

Mr. Haggerty: Water displacement.

Mr. Peacock: At the same time, it is protecting against erosion on the shoreline, where there has been some serious erosion. I went through the specifics of what this—

Mr. Haggerty: The overall cost was \$10 million over the 10-year period, was it? You said at \$1 million a year or something?

Hon. Mr. Bernier: Yes, if memory serves me correctly.

Mr. Peacock: The second phase is \$20 million and the first one was a little less than that.

Mr. Giles: It started out at five and was expanded, I think, to seven.

Mr. Haggerty: Well, what is the overall expenditure in this particular programme for providing access to Lake Ontario?

Hon. Mr. Bernier: Do you have the total figure?

Mr. Peacock: I haven't got a total figure.

Mr. Giles: Can I contribute the figures here? If I recall correctly, the first five-year programme was \$10 million of provincial and \$10 million of municipal money. This is why we were working at roughly the \$2 million level over that five-year period.

Hon. Mr. Bernier: But that phase is completed now?

Mr. Giles: That phase is over. Phase 2 has been submitted to us for consideration and it's roughly \$22 million total—that's both partners—so we are looking at perhaps \$11 million over the next five years, if this is in fact approved.

Mr. Haggerty: In other words, it roughly costs the ministry \$20 million over a 10-year period eh?

Hon. Mr. Bernier: If the second phase is approved.

Mr. Haggerty: It's fantastic, isn't it? To provide access to Lake Ontario—

Hon. Mr. Bernier: We're a very generous government.

Mr. Haggerty: Yes. I am a little alarmed at this particular expenditure when I look at the problems we have had in the matter of providing access to Lake Erie, particularly in the Erie riding where we have had problems; and the problem is still there today, where we had barbed wire fences going out into the water to prevent public access to the lake. I can cite one particular instance where I had discussions with some of your staff, and it is not totally the fault of your ministry. A marina was to be built in the village of Crystal Beach, and through the changing in municipal boundaries, from Crystal Beach into the town of Fort Erie, sometimes these papers get lost in the shuffle from one clerk to the other clerk; but now the interest in it is starting to be revived again. And I can think of an industry which came into the Fort Erie area and located in Ridgeway. It was an industry that sold small vessels, a line of marine products, outboard motors and so on. It was a pretty large investment for that area.

[5:45]

I was there at the opening of it and I happened to say to one of the particular persons interested in it: "This is a beautiful building here, but with the products you have I don't think you're going to be too successful." He said: "What do you mean?" I said: "What's the use of buying a boat in this area when you can't get out into the lake." There is very little access in that area and you're spending \$10 million here—and combined it would be \$20 million—to provide access to the lakefront down here. I'm sure that the federal government has provided an enormous amount of money to provide facilities at the lakefront and downtown Toronto.

Hon. Mr. Bernier: It's close to the park down there, Harbourfront.

Mr. Haggerty: Yes, Harbourfront, this is right.

Mr. R. S. Smith: It's the best piece of construction they've put in Ontario in 25 years.

Mr. Haggerty: That's right.

Mr. R. S. Smith: And you're from northern Ontario, Mr. Minister. You should be ashamed of yourself.

Mr. Haggerty: Yes, I know.

Mr. Wildman: What about Lake Huron?

Mr. Gaunt: I would kind of like a programme on Lake Huron too.

Mr. Haggerty: That's right. It's too bad that you didn't spread some of this money around. When you sit back and look at the promises that were made. In almost every election there was a promise by a Conservative candidate that there was going to be a park located in Erie. They have rather a short memory when it comes to something like this. It's been rather quiet though. If the minister and some of his staff could take another look at it there is land available for park purposes in that area. Sure, it may cost you some money. I think in one case you offered a person who had 1,700 feet of lakefront property and a 150-acre farm \$235,000. Altogether it would be about 300 acres of land. You offered him peanuts. I don't criticize you, Mr. Bernier, for it; but I do your predecessor who looked into it very closely. I told him that I didn't think it was enough money. If you really wanted to purchase a park site there then the money should have been available. Then we lost additional lakefront property there concerning the Thunder Bay Golf Club in Ridgeway, Ontario, which consisted of about 700 or 800 feet of lakefront property. That property could have been purchased for around \$225,000. I know the owner didn't want to sell it to an American but it eventually went to American speculators who are still maintaining it as a golf course, but, again, if the assessment on golf courses is going to change you can see that this is going to go to some other type of development. Again, that opportunity to obtain the lakefront will disappear too. I suggested that that golf course should have been purchased by the Niagara Parks Commission to extend their boundaries along the shores of Lake Erie, which they should. I'm amazed at this amount of money that you're spending in Metropolitan Toronto. Perhaps there's a need for it, but I can tell you this much, there is a need for public access along the shores of

Lake Erie because there is very little available.

Hon. Mr. Bernier: If I may interrupt, I think the hon. member is aware of the programme that we announced, I guess about a year ago, in connection with access to the Great Lakes.

Mr. Haggerty: I haven't seen anything done in Erie.

Hon. Mr. Bernier: We did have about \$1 million in that programme, then the budgetary cut came along and that was the end of the programme, really, so we never did get it off the ground. It was designed to do exactly what you want.

Mr. Haggerty: I've seen some of the property that you purchased. For example, Rock Point Park; I'll tell you, that is what it is, it's almost like a wilderness park. As far as bathing and swimming goes I just can't see it, because it doesn't have the beach facilities there, although it's being used today. There's vast improvements in the park and I'm sure it will eventually be used more, but where there is a greater population—down along the Fort Erie and Port Colborne area—there should be more access to the lakefront, or a park could be developed in that area. It's been promised for some time. I can remember the days in county council when we had good news from the member of the great riding of Welland who often used to say, "You're going to get a park eventually." Of course, we have seen the development of the Shorthills park but that is not providing access to the lakefront and people who have boats should have proper access to it.

I hope that for this proposed marina in the village of Crystal Beach funds will be available on a better basis than this 50-50 basis, because if there is a dire need for access it is in that particular area. They have dumped some fill in for a number of years—they have got it from highway construction and they have had access to fill from the sewer project in the village of Crystal Beach and Ridgeway and it's dumped out there now. It's been filled in with land fill there.

It will also provide protection to the shoreline in that immediate area. There was damage done to one of the public houses in the area and the tavern pretty well lost its business. I guess one wall along the lakeshore collapsed and it was severely damaged.

I suggest you spread some of this money around throughout the province, where there is a great need, instead of keeping it in one

particular area, perhaps Metropolitan Toronto.

Hon. Mr. Bernier: I share your concern, coming from northern Ontario.

Mr. Haggerty: Just share it a little bit more. Spread it around a little and make everybody happy. That's all I have.

Mr. G. I. Miller: I have a couple of concerns. My colleague talked about Rock Point Park where there was a bit of problem with one of the contractors putting in the services this year. I must say I did have a chance to visit the park and I think it is going to be worthwhile as it develops. There was a bit of a problem with the financing; apparently the payments for the work he was doing were being held back a couple of months and caused him financial hardship. I had many calls over it.

Hon. Mr. Bernier: Is it all straightened out now?

Mr. G. I. Miller: I think it is. I haven't heard from him recently but he called me three or four times on it.

Hon. Mr. Bernier: If you have some specifics and want to give them to me personally, I will look after it for you.

Mr. G. I. Miller: Thank you. Again, the mouth of the Grand River at Port Maitland—I think you were well aware last year of the disaster at this time, on November 10 or 12, in that area. I have had many calls.

There are apparently seven or eight older people who live in that area—they have lived there all their lives and are in their seventies. They have a problem in that they haven't got the energy to get out of the situation. I think they were flooded to a depth of four or five feet—the living room floors were covered in the ones right along the harbour. They are still wondering what might be done; they're afraid of another storm coming and having the same problem.

I wondered if there were any suggestions the minister might have which might be of assistance to them?

Hon. Mr. Bernier: Maybe Mr. Giles would have a comment to make on that.

Mr. Giles: Mr. Chairman, Mr. Minister, I am not absolutely certain of the response in this particular case. I believe this is the area our Mr. Panting went down to with people from TEIGA to look into it as a possible disaster situation—would that be the one, this past spring?

Mr. G. I. Miller: I think they met with the mayor and the councillors of the town of Dunneville. There were people from Fonthill there, with me and Dr. Railton, the federal member. We assessed the damage at that time.

Mr. Giles: There was no committee set up to develop the local share, I guess, of the disaster relief programme?

Mr. G. I. Miller: No, apparently nobody initiated it at the local level and this I think was the concern.

But still, these are old people who, as I said in the beginning, have been living there for 70 years. I think there were five or six in that age bracket, who have lived there all their lives. I don't think they had ever had such an experience as they had on November 12 and I think they had one a couple of months later, on a smaller scale.

They just feel they are in a position which they can't get out of and I know they have been coming for assistance to me to try to resolve the problem. The old grant programme would perhaps provide them with money but again they have to have the energy to do it.

Mr. Giles: We could review this again, Mr. Minister, with Mr. Panting and the conservation authority to see what sort of analysis they made as to what might be done.

Hon. Mr. Bernier: We will follow up on that then.

Mr. G. I. Miller: Shoreline protection has been mentioned this afternoon and again it is a real concern in my particular riding. We have had several projects within the Port Dover area which have utilized gabions and there was one project, recommended by the team that did the survey along the lakeshore this year, which utilizes cement blocks, three stacked one on top of the other and tied together with steel rods. It looks very effective.

My only concern is that these particular cottages are perhaps within 100 or 150 feet of the road. There is a fund available from municipal governments in which they put up 20 per cent and the province puts up 80 per cent. I feel that the people who have borrowed the money at eight per cent are really protecting the road and if they didn't do it—it is public land; they are within 150 feet of the roadway and their lots are between that and the shore. When

they put protection along the shoreline, they are, in fact, protecting public roads.

Hon. Mr. Bernier: It's behind them?

Mr. G. I. Miller: Right.

Hon. Mr. Bernier: It's a roundabout way.

Mr. G. I. Miller: Yes; I know it is a roundabout way, but it seems a bit unfair that the people have to have that expense, that total expense. Perhaps it's a problem that cannot be solved, but maybe it could be a work programme which could be developed over the years and which would protect private land. Maybe consideration should be given to those people who are protecting the public road.

Hon. Mr. Bernier: It's a point. If those properties weren't there the public purse would be looking after protection.

Mr. G. I. Miller: Once that 150 feet is gone it's the public which is going to be affected.

Hon. Mr. Bernier: That's right. It's a good argument.

Mr. G. I. Miller: There's another concern, too, sir: Are there any clean-out services for small harbours made available by your ministry for improving small harbour facilities?

Hon. Mr. Bernier: I was mentioning earlier that we did have a plan which we announced and, hopefully, it would have provided access and assisted with access to the Great Lakes but because of budget constraints and cut-backs that programme was wiped out on us, so we don't have anything.

Mr. G. I. Miller: Does your ministry have any equipment which can—

Hon. Mr. Bernier: No, we don't, really. This is really not our field. The federal

people deal with the wharves and harbours on a much greater scale than we do, outside of launching ramps which we develop for the public on our own. That's about the extent of our harbour involvement.

Mr. G. I. Miller: Do you have any relationship between your ministry and the federal people?

Hon. Mr. Bernier: Yes, we have a working relationship; there's no question about that.

Mr. G. I. Miller: Would it not be possible to have this kind of equipment made available through your ministry?

Hon. Mr. Bernier: What equipment is that?

Mr. G. I. Miller: For cleaning—

Hon. Mr. Bernier: We don't have any cleaning—

Mr. G. I. Miller: But you said the federal—

Hon. Mr. Bernier: Yes, I'm sure the federal people have. I am not sure but if they're in that business, you would expect them to have it. I think maybe a direct call to them would be helpful to you. That's all I can say.

Mr. Vice-Chairman: Mr. Miller, since it's now one minute to six, if you are agreeable and we haven't any other speakers, we can vote on this item.

Item 8 agreed to.

Vote 2302 agreed to.

Mr. Vice-Chairman: We will meet again after question period tomorrow afternoon; and tomorrow night.

The committee adjourned at 6 p.m.

CONTENTS

Monday, November 1, 1976

Land management programme	S-2457
Conservation authorities	S-2457
Adjournment	S-2488

SPEAKERS IN THIS ISSUE

Bain, R. (Timiskaming NDP)
 Bernier, Hon. L.; Minister of Natural Resources (Kenora PC)
 Bryden, M.; Acting Chairman (Beaches-Woodbine NDP)
 Ferrier, W. (Cochrane South NDP)
 Gaunt, M. (Huron-Bruce L)
 Godfrey, C. (Durham West NDP)
 Haggerty, R. (Erie L)
 Johnson, J.; Vice-Chairman (Wellington-Dufferin-Peel PC)
 Laughren, F. (Nickel Belt NDP)
 Makarchuk, M. (Brantford NDP)
 Mancini, R. (Essex South L)
 Miller, G. I. (Haldimand-Norfolk L)
 Reid, T. P. (Rainy River L)
 Ruston, R. F. (Essex North L)
 Smith, R. S. (Nipissing L)
 Wildman, B. (Algoma NDP)
 Williams, J. (Oriole PC)
 Yakabuski, P. J. (Renfrew South PC)

Ministry of Natural Resources officials taking part:
 Foster, W. T., Assistant Deputy Minister, Southern Ontario
 Giles, J. W., Assistant Deputy Minister, Lands and Waters
 Peacock, A. H., Director, Conservation Authorities Branch
 Reynolds J. K., Deputy Minister



Ontario

Government
Publications

Legislature of Ontario Debates

SUPPLY COMMITTEE—2

ESTIMATES, MINISTRY OF
THE ATTORNEY GENERAL

OFFICIAL REPORT — DAILY EDITION

Third Session of the 30th Parliament

Monday, November 1, 1976

Speaker: Honourable Russell Daniel Rowe

Clerk: Roderick Lewis, QC

THE QUEEN'S PRINTER
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CONTENTS

A list of the speakers taking part in the debates in this issue of Hansard appears, in alphabetical order, at the back of this issue.

Daily contents of proceedings also appears at the back of this issue. Reference to a cumulative index of previous issues can be obtained by calling the Hansard Reporting Service indexing staff. (Phone 965-2159)

LEGISLATURE OF ONTARIO

SUPPLY COMMITTEE

MONDAY, NOVEMBER 1, 1976

The committee met at 3:15 p.m.

ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL

(continued)

Mr. Lawlor: Mr. Chairman, on a point of order, I understand we will not be meeting either this evening or tomorrow evening in this committee?

Mr. Vice-Chairman: That's right.

Mr. Lawlor: I just want to have it on the record.

On vote 1202, administrative services programme; item 1, programme administration:

Ms. Sandeman: I am sorry I missed the discussion at the end of last week, Mr. Chairman, but if I get totally repetitive maybe you will call me out of order.

Mr. Vice-Chairman: I should tell you that the last session was devoted mainly to discussion of the Legal Aid programme.

Ms. Sandeman: Yes, I wanted to address a few brief remarks to the budget in the estimates for Legal Aid. I find it very hard to understand why the level of support for Legal Aid doesn't really reflect the increased activity in other parts of the justice system, and I believe it should. I understand that more and more people are appearing in courts, certainly more and more people are being incarcerated in the provincial jails, activity levels in juvenile courts and family courts aren't dropping back and yet the Legal Aid budget doesn't reflect that increase in activity. I hope that the Attorney General is actively pushing his cabinet colleagues for an understanding that the Legal Aid Plan is an important part of the administration of justice in Ontario. It seems to me that when we have, as the Minister of Correctional Services has pointed out, at the moment an increased jail population, we have to take that into account in the number of Legal Aid certificates that may have to be issued.

I have been quite disturbed. I sit on my local Legal Aid area committee and I have

been quite disturbed by some of the discussions that we have in that committee about possible ways of saving money. I am happy to say that the committee discussion always ended up by saying that the options before us are unacceptable and if the Legal Aid director felt that a certificate should be given he would continue to give it, despite suggestions from above that there should be cuts in various areas.

One particular area of concern around Legal Aid certificates I would like to draw to the Attorney General's attention—I am sure he knows about it but I would like to have some comment from him—is a neat little knot that arises around family court Legal Aid certificates which it seems to be very hard to untie. The problem arises because of the requirement of the Ministry of Community and Social Services that applicants for Family Benefits should prove that they have been deserted and, in effect, they must go to family court under The Deserted Wives' and Children's Maintenance Act and claim desertion. Now in a small town particularly, where people are fairly well known, it's very often apparent to the Legal Aid director in the area that such a court appearance will be absolutely non-productive in terms of support being produced to the woman in question, and the Legal Aid people are unwilling to give a certificate in such a case. They feel, and I think legitimately, that it is a waste of the court's time and nothing will be gained for the woman. She will get family benefits she would have got in the first place without the court appearance, and the Legal Aid people are saying quite clearly, "We are unwilling to give a Legal Aid certificate merely to satisfy the requirements of the Ministry of Community and Social Services." I think they are quite justified in saying that. Why should they spend court time and public money on an action which result is going to be nil, for instance, if the husband in question is on welfare or is an alcoholic or is chronically unemployed, has skipped the country, or whatever? I hope that the minister has had some discussion with his colleague in Community and Social Services about this. You

may know that there is a statement in the family benefits handbook that the Ministry of Community and Social Services puts out, which says in effect actions to prove desertion can be taken on two levels, either privately, with the help of the parental support worker and out of court, or through court action under 'The Deserted Wives' and Children's Maintenance Act, but that statement in the ministry's handbook is totally misleading because the staff of Community and Social Services have been given no mandate to carry out private action out of the court. In fact the court route is absolutely required and no formal guidelines have been issued to local Community and Social Services officers as to how they go about the other route. It seems to me that it would be very useful for the Ministry of the Attorney General and the Ministry of Community and Social Services to get together on that if only to save the kind of frivolous applications for Legal Aid certificates in these cases where people are going to court, bringing a charge under The Deserted Wives' and Children's Maintenance Act only to satisfy the requirements of another ministry.

I think that's a fairly important problem which is tying up a lot of court time and a lot of social workers' time. If we really are concerned about cutting back on unnecessary Legal Aid statistics, there is one area where it really could be done. In other areas that have been suggested, such as not allowing a second, third or fourth certificate for a recidivist, one wouldn't be able to support that. But I'd like to hear the minister's comments on that little knot that has arisen around family court. I know that my colleague, the member for Lakeshore, promises or threatens he is going to speak at some length on Legal Aid.

Mr. Singer: Promises.

Ms. Sandeman: Promises is a more tactful way of putting it.

Mr. Singer: Promises are usually threats anyway.

Ms. Sandeman: I feel slightly intimidated by not being a lawyer. Is there anybody else here who is not a lawyer? Fran is not a lawyer.

An hon. member: You're a very rare species.

Ms. Sandeman: Yes, we are. We must stick together.

Mr. Lawlor: They're welcome but they're inhibited.

Ms. Sandeman: Yes, I am inhibited; it's unusual, but I am.

I guess my only suggestion in a positive way to save money around the whole court proceedings, and specifically in the Legal Aid budget, would be to make sure that we don't have what I've heard referred to as garbage charges cluttering up the courts and being awarded certificates. The Scottish system, with the procurator fiscal, seems to avoid a lot of that, as does the Dutch system, where many cases are settled out of court. But that means of course, that you divert your funds just as you divert your cases and it may be just be a question of juggling the accounts rather than actually saving money.

What I'd like to do is give my support, for what it's worth, to the Attorney General if he's fighting, as I hope he is, to make sure that the Legal Aid plan is funded adequately. I believe, as I think everyone in our caucus does, that the plan is one of the cornerstones of bringing proper representation in all the courts of the province to the people of the province. It really is offensive to me to see the Legal Aid budget not keeping up with other activities in the justice field.

Could you comment on the family court thing and would you be good enough to look into that?

Hon. Mr. McMurtry: All right, but briefly, because I would like to hear from Mr. Lawlor and then perhaps make a further response. I regret that you were unable to be here on Friday, Ms. Sandeman, because I spoke at some length on the Legal Aid plan to clarify the extent of my commitment to the Legal Aid Plan, which is quite considerable. I don't want to repeat a number of the remarks that I made at that time other than to assure you of my own personal commitment and to indicate that we have an on-going struggle for funds. Of course, as I said last week, I suppose every minister is struggling for more funds for his or her priorities, and Legal Aid happens to be a very high priority.

For the record, the government has a certain policy and, as you know, the Treasurer (Mr. McKeough) has certain views on these matters, which are given some weight. A letter has been handed to me as an example of the response to some of the letters I sent to him. This particular letter happens to be dated April 21, 1976, and I'll only read an extract:

[3:30]

"However, as Treasurer of Ontario, I would remind you that in the fight against inflation,

government spending restraint is a major factor. The Ontario government is limiting its overall expenditure growth for the 1976-77 fiscal year to 10.4 per cent. Social services will not be the only area of provincial spending which feels the effects of constraints. Every programme, ministry and agency in the government has been subjected to restraints.

"I believe that fiscal restraint is vitally important to the continued growth and prosperity of the province. If it means cutbacks in some of our favourite programmes, then it may be a necessary but unfortunate thing."

The Treasurer is in a difficult position, of course, and this is one of his responses to our concerns that have been expressed for additional funding.

I think, as a matter of fact, the actual money that will be spent on Legal Aid in any given year is not reflected in the budget. For example, I have to tell you our budgetary allocation for this current fiscal year will have run out as of December and we will be returning to Management Board for additional funding. My position, quite frankly, is simply that the government in my view has a statutory obligation to meet the additional request for the funding. I think if you look at the increase this year, as opposed to last year and what, the amount of money spent on Legal Aid is probably increasing at a higher rate than in many other government programmes.

There have been a number of meetings with representatives from my ministry and the Ministry of Community and Social Services to work out some of these problems you are talking about. We recognize it is a problem, and the problem you have touched upon is a legitimate and valid concern, in my view, and we hope to have it resolved in the fairly near future.

On this whole matter of trying to cut back Legal Aid—and I know some of the people in different parts of Ontario feel that this is what I am trying to do—I tried to make it clear on Friday that we are not trying to cut back Legal Aid spending. What we are trying to do is see that the taxpayers are getting the best value for the dollar.

There are some abuses of the Legal Aid programme, both with respect to people who are receiving the benefits and a very small percentage of lawyers. These do give the plan a bit of a credibility problem, not with respect to the public as a whole but to much of the legal profession. My personal support for the Legal Aid Plan has led me to urge the legal profession to eliminate this, be-

cause I want to see widespread continued public support for the Legal Aid Plan.

For example, a former colleague, of the member for Lakeshore, Dr. Morton Shulman, refers continuously to the plan as a welfare plan for lawyers, and unfortunately his views are shared by others. It is this type of attitude, quite frankly, that we are anxious to fight and dispel, and a lot of our activities have been directed accordingly.

On Sunday, in conjunction with the dinner that some of our colleagues attended with me on Saturday night to honour our retiring Chief Justice, I spent half the day with representatives of about 30 county law associations and this was very much an important matter on the agenda, again to indicate in very clear terms my support for the plan and to discuss with them frankly some of the problems that we are encountering.

Coming back to your question with respect to this problem relating to the family court there has been a number of meetings between, as I understand it, representatives of our ministry and the Minister of Community and Social Services to try to untangle this and many other problems. The whole problem of eligibility is a difficult one and a complicated one and we are trying to develop some new approaches.

I don't know that—I can't give you details of these meetings, quite frankly, because I wasn't there. I do know that our ministry is spending a lot of time on this. I don't know, Mr. Campbell, whether you can report further on that? Could you, for Ms. Sandeman, please?

Mr. Campbell: The whole eligibility and assessment system as it is presently worked out is very complex administratively and is particularly difficult for the individual who applies. He might go to the area director's office and then to Community and Social Services and then to a law office. It is not exactly one-stop shopping for the applicant for Legal Aid, particularly if the local Community and Social Services representative is some distance from the area director's office and from the solicitor's office.

Pilot projects or developmental projects were undertaken in Ottawa-Carleton and in York county with respect to criminal applications to see if the whole system could be simplified. In conjunction with this we are looking at a way to make the eligibility and assessment system more fair to people who are just above the family benefits level in terms of income. The Osler commission suggested a number of specific proposals for

eligibility and assessment, almost a means test.

The idea, if it can be developed administratively, is to have a basic means test below which everybody would automatically receive Legal Aid without any assessment procedure, without any red tape at all. If they were above that level in terms of income there could be a quick, flexible means test administered to see whether or not they would qualify under a more simplified set of criteria.

This is the area where the sole-support mother, who is receiving family benefits but might not have an order under The Deserted Wives' and Children's Maintenance Act, would hopefully under the new set of proposals be able to go through the Legal Aid assessment procedure and get Legal Aid without having to take other proceedings, say under The Deserted Wives' and Children's Maintenance Act, if that was unrealistic. This is part of a much larger area to try to streamline the assessment and eligibility procedure and make it more fair.

The Ministry of Community and Social Services has come forward with some very rough Legal Aid discussion draft proposals and they are being looked at very carefully now by a committee of the Legal Aid Plan and our ministry to see what the financial impact would be and, particularly if a new set of proposals could be developed, how they would affect members of the public who are at particular income levels right now. It is a little difficult to work it out in the absence of specific cost figures and that is what Legal Aid, Community and Social Services and we are trying to do now as part of the overall procedure of simplification and making the formula more fair. Hopefully, that would take care of the sole support mother in the particular situation we mentioned.

Mr. Callaghan: One of the things, Ms. Sandeman, that you should be aware of is that the proposal involves getting the certificate and the Community and Social Services assessment approved all at the same location, so that the situation you were adverting to would not come up. The person would go for a Legal Aid certificate and instead of having to go to the Legal Aid office and then to Community and Social Services they would deal with it all at one point.

Ms. Sandeman: I think perhaps I didn't express myself very clearly. The major point with those women is that there is absolutely

no point to their appearing in court and, because of the way that Community and Social Services operates and says, "You must follow a certain route to be eligible for family benefits" they are, in effect, wasting court time and public money whether or not they get a Legal Aid certificate or however it is done. It seems to me that this is something the Attorney General's ministry should point out to these people—there is no benefit for the client, no benefit for anybody, to be gained in many of these cases by forcing them to jump through the hoops of a court appearance when everybody knows that there is nothing to be gained. Yet that is the only route, at the moment, the Ministry of Community and Social Services will accept as proof of desertion; although the family benefits' handbook says there is another route, no one can take it.

Mr. Callaghan: That's a different problem. I can accept that.

Ms. Sandeman: I'm sorry; I didn't explain that very clearly maybe.

Mr. Callaghan: That's a different problem, which we have to settle with Community and Social Services but there was a question of the eligibility they had established for qualification.

I agree with you that is wrong and that's been drawn to their attention time and time again. They still insist on going through this and we can't tell them to do something. That problem, I agree with you, is wrong.

Ms. Sandeman: The corollary of that at the moment is that these women come to Legal Aid and say, "I have to go to court. I can't afford it. I must have a Legal Aid certificate." The area Legal Aid committee says, "We've been told to cut back on our costs. Maybe we shouldn't give you a certificate because we know this is frivolous." That's the knot.

Mr. Callaghan: Maybe it has happened but if it has we're not aware of a situation in which a certificate was refused—

Ms. Sandeman: No, they haven't refused it but the temptation when the crunch is on from the Treasurer is quite considerable if only to establish to the Ministry of Community and Social Services what nonsense it is.

Mr. Callaghan: All we can do is to take up the problem again because we realize the impact it has on our system. It doesn't provide us with any feasible, tangible results and it's making a farce of the system; but again we are faced with the fact that they establish eligibility for their programmes. One of the things we've been working on—one thing we

want to get into—is the involvement of Community and Social Services in our eligibility programme. It was also recommended that if they get out of the field we will establish a test. I don't feel it is practical at this point in time, but the suggestion that they remove themselves from the eligibility question is a very good one and that is something we would like to get around to doing if we possibly could. I know that the problem exists and we'll just take it up with them again, with the minister, and hopefully we'll get some results.

Ms. Sandeman: Fine. Could I ask one final question before Pat has his turn? Under vote 1202, item 1, but without any further breakdown, there are two Management Board orders, quite large ones, which total over \$2 million. Could you give us some idea of where you needed the extra money? One was the Management Board order of February 24, vote 1202, item 1 for \$1,406,700, and another one was April 20, vote 1202, item 1, for \$800,000.

Hon. Mr. McMurtry: Which page is that?

Ms. Sandeman: It doesn't show in the estimates book.

Mr. Callaghan: Invariably what happens—I think it's fair to say—we put in what we think is required to run the Legal Aid programme.

Ms. Sandeman: Were both of those for Legal Aid?

Mr. Callaghan: Yes. They increased the allotment for Legal Aid, for counsel for Legal Aid.

Ms. Sandeman: So you've actually got an extra \$2 million for Legal Aid for this current fiscal year?

Mr. Callaghan: No, those were for payment of accounts for last year. They were for payment of outstanding accounts.

Mr. Sandeman: Last year?

Mr. Callaghan: We tell them what we think it's worth and invariably they have people who know better, who come back and tell us we can have only so many dollars. That results in us having to go back for more money. There are some interesting stories in the overall budgeting of our ministry but I won't tell them.

Ms. Sandeman: Please do; feel free; we've got all the afternoon.

Mr. Lawlor: You're sure off on that one, boy.

Ms. Sandeman: Would you estimate, then, that this year's Legal Aid budget may be equally short? It obviously will if you're going to run out by December.

Mr. Callaghan: Yes.

Ms. Sandeman: What would you figure, just off the top of your head, you'd need to carry you from December?

Mr. Callaghan: Another \$5 million.

Ms. Sandeman: Another \$5 million? How can you persuade somebody up there that this kind of budget is unrealistic and farcical?

Mr. Callaghan: The only thing that will do that is the election vote.

Ms. Sandeman: I see. You don't have much faith in the flexibility and malleability of the government?

Mr. Callaghan: You have a problem—

Ms. Sandeman: Speak up.

Mr. Callaghan: You do have a practical problem when the accounts come in. Lawyers often let their accounts accumulate and then send them in and this sometimes makes a sort of consistent projection of cost estimates not very reliable. Lawyers will work hard for a long period of time and not send in any accounts and then they get a slack time, such as in the summer or around Christmas time when they need the money, and they'll pump in their accounts to the Legal Aid Plan and it will be a tremendous drain on the plan.

[3:45]

So it's pretty hard to make sort of a straight line estimate as to what you're going to need, but invariably over the past few years we've found that the funds estimated have fallen far short of what, in fact, was required.

Mr. Stong: Just on that point, Mr. Chairman: I understood that a lawyer's account that was over six months old wouldn't be paid or honoured. Is that being enforced?

Mr. Callaghan: No, I think that's talk. They can't do that. There's a statutory obligation to honour the accounts and there's no limitation Act on the fund that I'm aware of. They may put it to the end of the pile and delay payment a while, but they can't take that position on it.

Mr. Lawlor: We're going to spend some time on Legal Aid this year because of certain rumours that we've heard and because we are terribly interested to defend the plan and to give every impetus to the Attorney General with respect to the maintenance and the expansion of the plan where that need is felt. I've already spoken of how valuable I think it is.

Secondly, a good deal of what I'm going to say will encompass future votes, and so what I'm saying here will affect what I have to say about the courtroom and we're really substantially eating into future votes and therefore it isn't as though we're hung up on 1202-1 or whatever it is. We're dealing with a very wide range of stuff and getting it off our plate and it'll shorten the rest of the estimates.

I want to say to the Attorney General and his staff that we spent noon hour today, from 12 to 2 at luncheon with John Bowlby and senior members of the Legal Aid group down on King Street and had a searching and very beneficial conversation with representatives of all political parties—the Liberals and New Democrats anyhow.

Hon. Mr. McMurtry: Mr. Bowlby is, as I think most people realize, the chairman of the Legal Aid committee benchers. I would say that many weeks ago I encouraged or recommended to Mr. Bowlby that he hold such a meeting with the opposition members who were interested in the plan, and all I can say is I'm delighted that such a meeting has now occurred.

Mr. Lawlor: Yes, it was very worthwhile. We even told him that we came to a conclusion that you were not either rigorous or adamant or seeking to scuttle the scheme. We've come to the conclusion that that was not—on the basis of what you told us—your intent or the direction in which you're moving; on the contrary, there was much goodwill and certainly flexibility with it, and that we would throw our weight behind you vis-à-vis the treasury board in order to maintain the scheme at a high and valuable level.

I want to refer to a number of the communiques of the Law Society of Upper Canada which have come to lawyers' homes or offices. One states that in March of 1976, 21 benchers attended a special convocation primarily to discuss reports of the Legal Aid committee. They talk of a definite budget and the structures of the government and then they say:

"Seizing every opportunity to save such expenses will not be enough to achieve the financial result the government requires. It will be necessary in addition for the government to establish as a matter of policy measures to limit or even eliminate some Legal Aid services now being provided."

In a few minutes I shall run over some of those. You've elicited recommendations from them on their side and I want to test your reception of the various suggestions, as to why or why not certain areas may be subject to limitation and even possibly elimination.

On April 23 the communique speaks again of the matter:

"The convocation had before it submissions from groups and individuals urging it to refuse to co-operate with the government's plan to reduce Legal Aid. During a full discussion with 39 benchers present, it made two things very clear: First, they are strongly opposed to Legal Aid services being reduced. And, secondly, as administrator of the plan, the society is not the policy-maker; the government makes the policy, and when it has decided what changes it considers necessary to keep the plan within the government's present financial limits, the society will carry out its administrative duties."

Hon. Mr. McMurtry: I find it difficult to contain myself. I want to make it clear, there has never ever been any suggestion by me to reduce the level of expenditure on Legal Aid by this province. And if there is anybody over at the Law Society who thinks differently, I wish they'd turn up their bloody hearing aid. We've indicated that we want to see that those eligible for the plan derive the maximum benefit from it. That has been our thrust throughout.

Mr. Lawlor: Well, the communique has been sent out to the legal profession under this particular head. After all, let us say, in a minatory way, I would suspect a good 50 per cent of the Law Society are more or less of your political persuasion. With that in mind, for them to feel that they must address the issue in terms of this kind—not to you but to the profession generally—says something about the hearing aid situation. They hear perhaps a little more than we do. But it's on record in Hansard now; I trust it will be circulated and your amenability will be better received throughout the profession and in the province.

On June 18, 1976, they say:

"Legal Aid counsel, again, be paid without delay as they are processed. The chairman of the Legal Aid committee reported to the 41 benchers present at convocation today that

he and the treasurer had met the Attorney General and discussed the society's earlier report respecting necessary changes in the Legal Aid Plan to meet government policy. The Attorney General said he would review the society's report and clear the way for a return to the earlier system of processing accounts."

We were losing a certain amount of legal talent for the very fact that they weren't being paid. They had to wait interminable periods of time, their office expenses went on and they threw up their hands in the face of the thing.

In anticipation of December, I would trust that same backlog and various forms of delay in the payment system, which I think came to a head twice last year—they have been contended with in the past and you now know how to handle them—will not recur as the funds run short in the development this year.

I want to do something for a few moments here with respect to statistics that I have from the Law Society of Upper Canada. This is a summary of applications for the two months ended May 31, 1976, with the year to date in the second column. They compare the figures of the year to date—

Hon. Mr. McMurtry: Excuse me, Mr. Lawlor. I wonder if we have copies of that so we could follow it. Has this been taken from their blue book?

Mr. Lawlor: No, this is the special letter written to Mr. James Renwick, dated September 9, 1976, where the Law Society, through Kenneth Jarvis—

Hon. Mr. McMurtry: I just wonder if it might be reproduced in this book here by any chance.

Mr. Lawlor: No, I don't think so. I take it the figures would be substantially at your fingertips, though, because basically I'm going to deal with yearly figures.

Mr. Renwick: This is the statistical report which the Legal Aid committee presented to convocation on July 27, 1976. I'll lend my copy to the Attorney General, but perhaps I could have it back.

Hon. Mr. McMurtry: Thank you very much.

Mr. Lawlor: All right. Ignore the first page of statistics which starts with Algoma and comes down. At the bottom of the page, after running through the various counties, they say in the current month—I think they mean the current two months—the provin-

cial total was 7,424 and last year was 7,173. I mention that because that is the only area here where you will find there is an increase. The next figure over, for forms 2 received, goes from last year's 8,509 to this year's 8,216; the next figure after that, for referrals to social services, goes from 8,200 down to 7,400 this year; and the refusals have gone up from 2,340 to 2,708. All these are interesting figures and statistics.

If you swing over to the year-to-date figures in the fifth column, the informal applications have dropped from 15,623 to 15,291, forms 2 from 18,400 to 16,400, referrals to social services from 17,800 to 14,800—that's a very substantial drop—and refusals again have mounted. In other words what is happening throughout the province is more and more people are being refused Legal Aid under that particular head.

If you jump over the next page again, you come to the totals on provisional certificates, which last year were 254 and now are down to 206. All the other figures coming through on provisional certificates are down. The total of 15,142 last year has dropped to 12,800. The civil certificates are down from 7,179 to 5,800, again a substantial drop. The next one, in criminal, is down from 7,963 to 7,021.

All I am quoting these figures for is to show they have either levelled off or are dropping. Part of the reason for them dropping is refusal of certificates, and that may be a good or a bad thing. I suppose we could spend time trying to look into that, although you may not have too much on that; it's being done largely by the area committees.

On the whole there is a drop—even in duty counsel work. Take a look on the next page, which has to do with duty counsel. Last year the total was 26,120; that has dropped to 25,651. There has been an increase in the civil and a drop in the criminal under those statistics.

I suppose I want to stop there just for a moment. Do these figures reflect what I am saying, in your opinion? If so, then why would you be \$5 million short of funding as you come in towards the end of this year?

Hon. Mr. McMurtry: I'm not sure I understand the question.

Mr. Lawlor: If the volume of work being done under Legal Aid has either levelled off or is decreasing, and those statistics indicate to me a decrease—

Hon. Mr. McMurtry: You can't translate the number of certificates into dollars. There is obviously some relationship, but—

Mr. Lawlor: Quite a bit.

Hon. Mr. McMurtry: There is a lot that is not related.

Mr. Lawlor: Well, duty counsel get \$75 a day.

Hon. Mr. McMurtry: There are lengthy trials in some drug offences, for example. There is one trial—I don't know if it's still pending—the cost of which I know was upwards of half a million dollars. I think Mr. Stong may know of the trial I am talking about. The case is pretty well known in the legal profession; it's a major drug conspiracy. Maybe Mr. McLoughlin would care to comment further.

[4:00]

Mr. McLoughlin: In budgeting for the Legal Aid Plan, we attempt to estimate how many accounts we will receive during the current fiscal period. At any given time—now, for instance—there are probably about 75,000 certificates that may have been issued recently, or some time ago. Matters will get completed and those certificates will then be translated into accounts at some time in the future. Really our budget is based on the anticipated cash flow we will require to meet the certificates that will be translated into accounts. If the decrease at the present time in the certificate level was to continue, we probably wouldn't feel the impact of this until well on into 1977 or even into 1978. There are certificates for smaller matters which turn over very rapidly but many criminal matters may be in the process for up to 18 months from the time of the issuance of the certificate to the time the account is actually rendered.

Right now there is probably a backlog—I shouldn't say a backlog—outstanding certificates in the region of 75,000.

Mr. Lawlor: What I understand you to say to me is this: We are watching it, we are hopeful that the process of levelling off is taking place, we are perhaps a little dubious whether or not it is, if it is so much the better, it will reflect itself in next year's estimates.

Mr. McLoughlin: It could start in next year's estimates.

Mr. Lawlor: What you have to do in Legal Aid too, to a greater extent, and we dis-

cussed this at noon hour, is enlist the services of judges. As has just been pointed out, the very long trial has become something more of a phenomenon and that's where the costs mount in a particular area in Legal Aid. On one side of the fence, the poverty lawyers will say that's to be anticipated, that's to be expected. Under the previous regime, the individual could not stand, however deserving he may be, to be in that courtroom for three weeks, 10 weeks or 15 weeks, it was totally impossible. Therefore the long trial is to be anticipated and even accepted as being an intrinsic part of the justice worked into the Legal Aid system.

On the other hand, from the bar I hear the contrary story, namely that very often these lawyers more or less—and it's not difficult for the shrewd lawyer—keep a trial going, calling witnesses, calling psychiatric evidence at \$350 to \$375 a day—more psychiatrists than are needed in the particular case. The judge tries to remain aloof of these matters. The contention was that the judges, particularly now that this disclosure requirement has been removed, must begin to interest themselves in this kind of case appearing before us and be open and not just willing but forthcoming with respect to making some kind of statement if they think it's being abused, if they think the prolongation of the trial was unnecessary. It is a very difficult judgement, nevertheless it's validly to be made, and there's a responsibility on them. They're the ones closest to it. They're the ones that can judge, either on a plea of guilty when he subsequently hears the evidence, to the extent that he does hear it in this context, or with respect to the procedural matters and to the operations of trials, under this particular head. This ought to be closely monitored by the judiciary. I think you would get a fair amount of response from it. They may feel they have enough to do just to sit there and listen to it and concentrate on the evidence and sort it out, but this is an added dimension in our society for the exercise of judicial discretion and I have no doubt that it will be used discreetly but there must be.

We know the other side of this argument. I just want, for the purposes, I suppose, of comic relief, to bring in the *Globe and Mail* statement of October, 1974, a couple of years ago admittedly, regarding Mr. Justice Haines. Mr. Justice Haines took a very grave exception to some individual getting Legal Aid. The newspaper writer commented:

"While a judge does not inquire as to whether an accused has been defended under the Ontario Legal Aid Plan, I can come to

no other conclusion from the pre-sentence report and the amount of public welfare this man has received than that he had been to date defended under the Ontario Legal Aid Plan. So, before parting with this case I am constrained to comment on these proceedings. They have been, in all probability, conducted at the expense of legal aid. The accused has a criminal record going back to 1957, including burglaries, carrying a concealed weapon, false pretences, theft and wilful damage . . . He ought not under any circumstances to be given Legal Aid on appeal from Mr. Justice Haines' decision."

The Legal Aid Society had the fortitude and goodwill to proceed to give him the Legal Aid. The case went to the Court of Appeal and Mr. Justice Haines' judgement on three elementary counts was knocked down and the accused was judged innocent, and this is the upshot of it.

In other words, while I think the judges should be appraised and surveyful of the operations of Legal Aid, at the same time there are some judges in whose hands I find it rather difficult to place that discretion. I suppose the outcome of that particular case did act as a restraining influence, modifying—I don't think Mr. Justice Haines would be modifying, but cutting back a bit on his strictures and his feelings on Legal Aid. In any event, he hasn't been quite as vociferous since that time with respect to the ongoing attack. Still this is a dimension that is only beginning to be explored and through you and your relations—more informal, I suspect, than formally—with the judges would try to urge, to give a greater monitoring effect to the operation in their courts of the Legal Aid scheme. That's as much as I want to say about that.

I want to go on now, and I say this is what covers some subsequent votes. There are 15 various propositions put forward to you as to how costs may be saved, and the number one was a greater resort to the accused's relatives. It has come to my attention that—

Hon. Mr. McMurtry: What was that at first, a greater resort to an accused's relative?

Mr. Lawlor: Yes to his relatives.

Hon. Mr. McMurtry: We've never even heard of that.

Mr. Lawlor: Haven't you? That his father and his mother ought to make a greater contribution and that sort of thing? As I've said, what's been reported to me is that a young man will come into a legal office and the lawyer will say to the Legal Aid, "I don't

think he should have Legal Aid. His old man is fairly well to do." He goes back to the Legal Aid office and they refuse the certificate. They say it is a most curious phenomenon how father then enters into the fray.

Mr. Callaghan: Well we've had a request to review this. Actually what was put to us was there should be more rigid financial eligibility standards. We didn't pin it on the father or the mother having any money.

Mr. Lawlor: I won't seek to disinter what I wrote down here on my long list. I think there's some merit in that. I do think that the father will repudiate the child on occasion. He's been something of a wayward son. But when he's in a crunch the parents, being well off, well able to pay, were they otherwise disposed toward son or daughter, would refuse in the first instance and, if the public purse will pick it up, blink their eyes. I'm saying that kind of case should be carefully scrutinized and in the first instance the Legal Aid certificate denied and see what happens. Just leave it fallow and if the son or daughter then subsequently reappears and says, "The old man won't fork over," all right, they get a certificate.

Curiously enough, I am told that more often than not the well-to-do parents see fit that their son doesn't go to jail, or at least has adequate defence in the context. That's one area.

The second area is no Legal Aid for prostitution, impaired or under-suspension driving. I suppose that's—I am not going to give you my answers all the way along here. My job in the estimates is to inquire, to be told. What is your thinking?

Hon. Mr. McMurtry: First of all, if I may just interject for a moment—as I indicated I think last week, I would be much obliged if I could be assisted by your answers and your proposals. There is a number of areas here in which I think it would be very useful if there could be some understanding among at least two—if possible all three—of the political parties represented in the Legislature as to where we go. In other words, if we can reach a consensus in some of these areas it would obviously be in the public interest to do so. I am quite prepared to give you my response first and then hear your view as to whether it is adequate. I just want to say, Mr. Lawlor, that I welcome the views of you and any other members of the committee with respect to what we can do to improve the Legal Aid Plan. More money, I accept, is obviously one suggestion, but on what we can do even

within the existing budget to improve the plan, please don't hesitate.

Mr. Lawlor: All right, I will adopt a different stance. I am quite prepared to trade notes on the matter, converse back and forth as to the merits or demerits. Let's just take what I consider possibly the easier one: Under-suspension driving. I really doubt whether that should be covered by Legal Aid.

As far as impaired is concerned, my feeling is that—

Hon. Mr. McMurtry: The driver who is already under suspension?

Mr. Lawlor: He is under suspension.

Hon. Mr. McMurtry: And he is driving and is charged?

Mr. Lawlor: That is right. With the impaired driver, it seems to me that most lawyers with an ounce of integrity refuse to take the cases. That's my experience. A guy comes in, he's got 0.78 or 2.1 on the Richter scale and it's an open and shut case.

You are not going to take \$200 away from him because you are going to go up there—you can argue a plea of guilty but it's ridiculous. It's his first offence, let's say, and in that particular context I think any honest lawyer will say, "You haven't got a chance in the world. Go on up there and plead guilty and take the best you can get. You will have a fine of a couple of hundred or maybe \$300 and your licence is going to be suspended for six months and that's it."

Otherwise I think lawyers are operating under false pretences to think they can do something for the guy. One case out of one thousand they manage, because the judge nods that afternoon. You can't work on odds like that and therefore Legal Aid should enter very little into impaired driving charges.

I would be very pleased to hear other comments from other members of the committee. I am taking a fairly tough stand because I am trying to generate response.

Ms. Sandeman: Do you want me to comment?

Mr. Lawlor: Yes.

Ms. Sandeman: The danger surely of that is the—what shall we say?—fellow who is the backbone of the community and can afford to pay a lawyer and who comes to court on these charges, will be defended. He's a nice middle-class fellow and he gets a lawyer who

doesn't mind taking that kind of case and he has his day in court.

What are you going to do about the inequities inherent in that? Very often, because he has a slick and fancy lawyer to whom he is willing to pay a lot of money, he gets what appears to the public to be a very light sentence compared with the guy who's less well-off, less well-known in the community and less attractive to the lawyers. There is a perception out there in the community that your rich guy gets a better deal in court on impaired driving charges than your poor guy. I think the suggestion you are making, with all due respect, is going to increase the gulf between the rich and the poor.

[4:15]

Mr. Lawlor: My answer to that is you're dead wrong in my opinion. The sentence here, rich or poor, is pretty much the same.

Mr. Singer: In fact, in Belleville, you go to jail no matter who you are.

Mr. Lawlor: That's true. In Belleville it doesn't matter who you are. It's \$200, \$250 or \$300 fine. It depends on the judge but it's within those limits particularly if there hasn't been an accident; the cancellation of the licence flows. That's it, rich or poor.

Mr. Singer: It's automatic under The Highway Traffic Act.

Mr. Lawlor: I don't think that argument has weight. It has weight in other areas—white collar crime and types of fraud and things like that. If you get a really first class lawyer you could probably do much better.

Mr. Stone: Perhaps, Mr. Chairman, I can make a comment on that. There has to be a distinction between the first offender and the second and the third offender, and the consequences of a conviction are that much more serious. It seems to me that your argument holds its most weight with respect to the first offender; but even there it can fall because there may be some kind of a defence, an oversight on the part of the Crown, which only a lawyer can pick out.

I'd hate to be judged by your standards of a lawyer taking a case, because it seems to me that many people want to have assistance when they enter the courtroom, particularly when the consequences are as serious as those that flow from a second or third conviction. More can be done for that type of client in many circumstances than in other circumstances.

Mr. Lawlor: I was going to come to that, Mr. Chairman. There is merit in what is being said here with respect to 14 mandatory days in jail for the second offence and escalating from there. We all know that very often that certificate of first offence is not delivered because of the surrounding circumstances and then he's tried really on a second one as though it were the first offence.

That, by and large, in my opinion, does ample justice to the particular case. There are alleviating circumstances involved in the thing and this may be bargained for and this may be the result arrived at in a particular case. Therefore, a lawyer plays a very valuable role.

When a man's going to go to jail for the offence certainly, because it's required by the Code, he should have, in my opinion, legal representation. I haven't got to that second level yet. I wanted to test the first level first.

Mr. Stone: A man is liable to go to jail even on a first offence if the action is serious enough. If he has to go to jail a lawyer can provide a valuable service by making representation with respect to an intermittent sentence.

Mr. Lawlor: Most unusual. For the prostitutes; My Lord, get them on bail and they go out and earn enough money to pay for the lawyer. You're only subsidizing that.

In the old days before Legal Aid, one of the reasons for Legal Aid, was precisely that the lawyer would gain bail for the accused so that he could go out and commit another break and entry in order to pay the lawyer. Now the second break and entry happens anyway but it's not for that particular purpose. Prostitution, I would doubt whether the woman from Rome ought not to have representation. She should have representation, in my opinion.

The surrounding circumstances are not calibrated by way of a breathalyser, so to speak. The thing is not so cut and dried. The issue presents a wide range of variation and I have a soft spot in my heart for prostitutes anyhow. If you read as much Dostoevski as I do and know about Crime and Punishment you'll know they're all golden-hearted shrews and their condition is brought about through no fault of their own.

Has the Attorney General any comments on this?

Hon. Mr. McMurtry: Not on Dostoevski. I gather the practice is to issue a certificate, assuming the person otherwise qualifies for

aid, like on a second conviction where a jail sentence is supposed to be mandatory, and where a person satisfies the area director that his livelihood is involved. I must confess that I have some real degree of uneasiness about interfering with that practice, because one's livelihood vis-à-vis the individual is a pretty important consideration.

My concern in relation to some of these charges is whether or not certificates are being issued to people who really probably could pay for a defence. Most lawyers have experienced that situation where a person comes in with a certificate and upon further inquiry it is often determined that they are quite capable of paying for a defence but, as I say, I would be reluctant to make that recommendation to arbitrarily deprive them of Legal Aid assistance at this time.

Mr. Vice-Chairman: Mr. Renwick, anything further? Mr. Lawlor?

Mr. Singer: Mr. Chairman, did you have me down?

Mr. Vice-Chairman: I am sorry, yes, you are actually preceding Mr. Lawlor on the list I have here.

Interjections.

Mr. Renwick: The member for Wilson Heights wasn't here on Friday, if I remember correctly.

Mr. Vice-Chairman: Gentlemen, the list that was left by the chairman had Mr. Singer listed prior to Mr. Lawlor. Would you be willing to let him go now? You might argue that he has lost his position—

Mr. Renwick: I am always willing to defer to my colleague because I know his time is so valuable. Sometimes he can't be with us.

Mr. Singer: Mr. Attorney General, the question of interest on the foundation; I understand there was some concern expressed on Friday at the three per cent?

Hon. Mr. McMurtry: Yes.

Mr. Singer: What can we do about it? We established this as a method of getting some money, why can't we establish a better rate of interest?

Hon. Mr. McMurtry: I have taken it up with two treasurers, Mr. Thom and Mr. Gray, and with my own representative on the Law Foundation and requested that they explore the possibility of obtaining a higher

rate of interest. I haven't had a definitive report back.

Mr. Lawlor: In order to discuss the various things that have been talked about, and I have as I indicated earlier a very considerable list of matters I wish to mull over—

Mr. Vice-Chairman: We were misled by your other lengthy report, and we thought you were finished.

Mr. Lawlor: Since Mr. Singer has launched, I shall permit him to complete that particular point, but I wanted to—

Mr. Vice-Chairman: I guess you have permission to carry on.

Mr. Singer: Yes. I was trying to follow this up with the Attorney General. You said you have spoken to two treasurers, the former one, Mr. Thom, and the present one, Mr. Gray, and they are pursuing it. How did we arrive at the three per cent in the first instance?

Hon. Mr. McMurtry: I gather it was a series of long negotiations between representatives of the Law Society and the chartered banks. I am advised that this is a very complex matter. Not having a great deal of understanding about banks and banking and accounting I probably do not appreciate the complexity of the matter. I haven't received any formal report back from the Law Foundation on this topic but I can say I am satisfied it is a very complicated matter. I assume that the matter is being pursued.

Mr. Singer: Would it be probable that when this idea was arrived at in the first instance, there had to be a suggestion or prodding from the federal people in Ottawa because of their control over banks and banking?

Mr. Callaghan: I was president when that came in and I know that the treasurer of the day, Mr. Robins, had entered direct negotiations with the chartered banks. Those negotiations were prolonged and difficult but they didn't have to resort to that—certainly not that we were aware of, in any event.

Mr. Singer: I notice that Mr. Abbott, who is the new Minister of Consumer and Corporate Affairs, is talking about monthly payments of interest and so on. Might it not be appropriate that the government of Ontario directly went after the banks? Three per cent seems to me to be woefully inadequate and, having listened to the tale of woe from Legal Aid today, if we could get

some more money out of the banks, it might help Legal Aid quite a bit.

Mr. Stone: We were advised that every extra point would yield another \$1 million.

Mr. Singer: One per cent?

Mr. Stone: Every point would yield—

Mr. Singer: Another \$1 million?

Mr. Callaghan: I think that's right.

Hon. Mr. McMurtry: I'll continue to prod them, if I might use that term. I think it's the responsibility of the Law Society and its foundation to approach the banks, and not the responsibility of the government, but we will continue to press them.

Mr. Singer: The other thing that caught my eye in this report of the Law Foundation is the various research projects that were directed. In one, for instance, \$10,000 was given to Professor Edwards to do some research into powers and responsibilities of law officers of the Crown. Are the results of those studies ever made available to us or do they just go down in the annals of the particular law school for examination?

Hon. Mr. McMurtry: I think they should be made available to us. Perhaps Mr. Wright would like to comment.

Mr. Wright: Mr. Chairman, in giving its grants, the foundation requests that a report be made, if it's in the area of research, exactly how the money was spent and what the end product was. I'm sure the foundation, if requested, would make that information available.

Mr. Singer: Might it not be appropriate then, Mr. Attorney General, to send them a letter every now and then and, when we see specific projects that are of interest, to send them a particular letter? I think it might be very interesting if Professor Reiter, for instance, is going to tell us how to cut down legal costs on real estate transactions; I don't know what he's researching in real estate transactions, but it might be very helpful. Certainly I'd be interested in the one on law officers of the Crown and their duties; if somebody's got \$10,000 to find out what the law officers do, I'd be very interested in finding out what they write down about what the law officers are supposed to do.

Hon. Mr. McMurtry: Mr. Callaghan would have told us for much less, I suspect.

Mr. Singer: Yes. I have my own theories, but let's see what this turns up. The same would apply to other things, but those are the two that caught my eye.

Mr. Callaghan: They'll ask everybody except a law officer what a law officer does.

Mr. Singer: Well, that well may be. All right, Mr. Renwick or Mr. Lawlor, have at it.

Mr. Renwick: I defer to my colleague.

Mr. Lawlor: Just on that particular point, I don't want to be picayune, but the Law Reform Commission of Canada or Mr. Archie Campbell and his policy division can do all that. If the Law Society wants a particular area researched, they can ask either one of these bodies to give consideration to it. I think the money should stay in Legal Aid.

Mr. Renwick: I have concerns about the Legal Aid Plan which may involve me in some repetition of what's gone before. I've had the benefit of listening to most of what my colleagues on the committee have had to say about it, but I think there are some significant problems in the Legal Aid Plan. Perhaps I could put it this way, that I think a combination of the Osler report and the financial stringency of the government in its funding of the programmes has produced a critical situation with respect to the direction of the Legal Aid Plan, which in a sense is being submerged within the administrative complexities of the plan and not being focused as to the real needs of the constituency which brought about the Legal Aid Plan originally and which continues to be the constituency which should be served by the plan.

[4:30]

I want to set aside, at least for the moment, the question of whether or not the plan should be reconstituted in a way in which the Osler report indicated. I would like to also set aside any question of whether or not we should be evolving toward an insured scheme of some kind that would meet what could be called "middle class" legal needs, which are also part of the problem. I may want to comment very briefly about that later on. My first questions are related to what the Attorney General is saying and what the Law Society is saying and what the resolution of it may be. I put it that way because I don't understand what the problem is that both the Law Society and the Attorney General seems to be ducking in response to where we are going with the Legal Aid programme.

Hon. Mr. McMurtry: If I could just interject for a moment, Mr. Renwick, I think one of the basic decisions that has to be made, obviously, is what you have just set aside and what you, with the greatest respect, appear to be ducking yourself, at least temporarily. That decision is whether or not the Legal Aid Plan is going to remain under the Law Society and perhaps, if so, under what conditions. I think that decision is pretty basic to any progress in any particular direction.

Mr. Renwick: Well I would be prepared to comment at some length. I can certainly comment on that aspect of it. I am not really concerned about that in the immediate sense, because I am thinking about the constituency to be served by the plan in the next year, the constituency being served this year and the one which, because we are not likely to see your estimates again for some time, will take us into 1978 for practical purposes before there is any change. I am really talking about that constituency which was part of the motivation that led to the kind of plan we have now.

I recognize that there are good, solid arguments for changing the structure of the plan. I don't want to put that aside in the sense of putting it aside forever but simply in the sense that it is not going to happen within the next year or two and it is the constituency I'm concerned about that is very important.

I might say also in a preliminary way that from time to time I have had, obviously, the opportunity to refer some of these questions to people whose judgements I respect on them. I don't pretend to be an expert. I don't have the professional expertise in a detailed sense that my colleague, Mr. Stong, has in the practice of criminal law; nor do I have a very close connection with the plan, other than I get because of the work done at WoodGreen Community Centre in the Legal Aid clinic there and the kind of situations that come to my attention at that place, together with the knowledge from the beginning of this plan because I have been in the assembly. But I don't have any special or particular expertise about it.

We're being asked to consider voting \$18,-421,500 in transfer payments for contribution to the Legal Aid fund; which is about \$2,402,-000 above what was asked for in last year's estimates, but is for practical purposes only marginally different from what the actual expenditures for the previous year were. So it's in that sense, presumably, that the government has moved to stabilize the transfers to the Legal Aid plan. However that's been translated, it's been translated in one sense

that the government has decided to terminate the open-ended nature of Legal Aid funding and to impose a fixed budget limit for 1976-1977 at a level of \$4.5 million below what the Law Society believes it needs.

My first question is, will you help me with the figures? Regarding the \$4.5 million, is that the level at which the \$18 million-odd that we're talking about here is below the estimate made by the Law Society? Did the Law Society make an estimate, and what was it?

Hon. Mr. McMurtry: The Law Society estimate was \$23 million.

Mr. Renwick: Which is this \$4.5 million in excess of what we are being asked to approve. Then I take it you indicated that as at the end of the year you estimate that you're going to have to come to the assembly for a supplementary estimate of—did I hear \$5 million?

Hon. Mr. McMurtry: I think this is what we estimate is the likelihood.

Mr. Renwick: To take the plan through to when?

Hon. Mr. McMurtry: The end of the fiscal year.

Mr. Renwick: So for practical purposes, in rough figures, the estimate of the Law Society turned out to be relatively accurate.

Hon. Mr. McMurtry: Yes. That's right. I don't think there's any question about that. We in the ministry of the Attorney General accepted the Law Society's estimate. I don't want to unnecessarily rehash anything that's been said before, but the Deputy Attorney General touched on a matter of budget forecasting in answer to a question by Ms. Sandeman, and in the past the forecasts have been right on. I think in the last fiscal year ended March 31, 1976, it was within \$200 of the estimate submitted by the ministry for that fiscal year. I think I should say that in support of the senior staff in the ministry who have this responsibility. I think their ability in these matters is recognized and it's unfortunate it's not always accepted by the central agencies of the government.

Mr. Renwick: Right. Mr. Chairman, I would say to the Attorney General, I'm not interested in going into the arguments as to why the government didn't accept your recommendation and cut it back. I'm interested in establishing the fact that, at least for my own satisfaction, your ministry and the Law Society were in substantial agree-

ment as to the needs of the plan for the fiscal year 1976-77.

Hon. Mr. McMurtry: That's absolutely right.

Mr. Renwick: All right. I think that helps me considerably. I forecast that you're not going to have any difficulty getting the funds from the government by way of supplementary estimate, and that you will get approval in due course for that. If you are having any trouble I would lend my small voice to indicate that in a sense the government is mandated by The Legal Aid Act to provide the funds which are required, and that it has little, if any, discretion unless it brings in a significant amendment to the Legal Aid Plan, which, of course, it could do if it wanted to. I want to make a point and ask whether or not the ministry agrees with it. I'm quoting a comment made in a letter that went to convocation the day before convocation was held, by Ronald Ellis, who was involved in an action on Legal Aid at that time. I may say it's an excellent letter. One part of it, if I may quote, states:

"In my respectful view the profession must say to the government that there is no justification for any reduction in the Legal Aid budget, that the services now being provided are essential services, that, indeed, an expansion of Legal Aid services of various kinds, as recommended by the profession in 1971 and again by the Osler Task Force in 1975, is necessary and long overdue, that, furthermore, the present services are provided pursuant to the legislated mandate in The Legal Aid Act which fixes the Law Society with the obligation to administer that mandate efficiently and with the least possible abuse, in accordance with its terms, in the interest not of the government but of Legal Aid applicants, that the government is responsible, under the Act, for providing funds to cover the reasonable costs of providing the services so mandated, and that it is inappropriate and contrary to the free traditions and principles of government in this society for the government to attempt to restrict access to the mandated legal services by an executive decision to restrict the funds required."

If I might just underline that in perhaps more precise terms, it would appear that sections 6 and 7 of The Legal Aid Act could give an argument, I think a strong argument, that the government cannot unilaterally limit the funds available to the Legal Aid Plan. Those sections seem to say that the Law Society is to estimate the amount it is going

to need, which it has done, and that that amount shall then be provided by the Legislature. Section 12 of the Act also says that in certain situations a certificate shall be issued. And then, of course, there are a number of other areas where there is a discretion to issue, but the discretion must be exercised bona fide in respect to the nature of the application, not with respect to whether or not the budgetary restrictions of the fund limit the right for the certificates to be issued.

I think that's my first particular question. I wonder if the Attorney General would say to me he agreed in some respect with my interpretation of the nature of The Legal Aid Act and the limitation imposed by it on the government's ability to cut it back.

Hon. Mr. McMurtry: I don't have any quarrel whatsoever with your interpretation.

Mr. Renwick: All right. I think it's interesting, since we're in such agreement, that we should talk a little bit about the audience—I'm not talking about the specific audience in Windsor that you spoke to; I'm talking about the public audience that you believed it was necessary to respond to in the remarks you made in Windsor about the Legal Aid Plan. I think in substance what you said on Friday was this concern of yours that there was a lack of public credibility about the plan. You were addressing yourself to that matter and the lack of credibility was reflected in this atmosphere that somehow or other the plan is being abused, whether that is being contributed to by the judges or by the lawyers. It's the abuses of the plan which, I think, have deflected a great deal of the kind of attention we should be giving to the plan about the constituency it was designed to serve.

[4:45]

Hon. Mr. McMurtry: I brought extra copies of that speech with me today, Mr. Renwick, and if any members of the committee would like a copy, I am sure the page would be happy to distribute them. Thank you.

Mr. Renwick: Are they autographed copies?

Hon. Mr. McMurtry: If you want them to be.

Mr. Renwick: I take it the thrust of what you have been saying to us about your attitude toward the plan is that anything that you have said about a restriction on funds has been related to the elimination of abuses

and an improvement in efficiency in the operation of the plan, is that it?

Hon. Mr. McMurtry: Absolutely.

Mr. Renwick: So far as the abuses are concerned, the ones which appear on the surface are, first of all, trials being unnecessarily held, and unduly lengthy trials or court proceedings as a result of that kind of decision. Is it the ministry's view that that is taking place? Is it not a matter which can be rectified by adequate direction to the courts as to the way in which they will deal? Surely, a judge would be the first one to disagree that he allows his court to be used for an abuse; particularly in criminal matters let alone in vexatious or frivolous civil matters?

Hon. Mr. McMurtry: Yes, I agree it—

Mr. Renwick: Will the judges deal with that question?

Hon. Mr. McMurtry: We think so. It's a delicate issue with some judges. I first began to discuss this problem with the chief judges, particularly at the provincial and county court levels, before the end of last year. My suggestion was met with varying degrees of enthusiasm. I gathered from further conversations or subsequent conversations with the same chief judges that there was less than universal enthusiasm among the judiciary toward accepting this responsibility.

I felt in view of the number of complaints which had come to my attention or had been communicated to me, either directly or indirectly, by judges that they had a responsibility. It wasn't sufficient to complain about alleged abuses and not be prepared to take some active role in remedying these abuses which, while perhaps few in number, did hurt the credibility of the plan. It's been a real concern of mine.

I think if the white paper on court administration has any merit and if there's any acceptance or any enthusiasm within the Legislature as well as within the public to proceed with that, I would hope it might again be a useful vehicle by which to persuade the judiciary as to the wisdom of playing their role in helping maintain the credibility and integrity of the plan.

Mr. Renwick: I would assume again—let me speak for a moment of the constituency the plan was designed to serve—it does seem to me that whatever abuses there have been, they have been a relatively small price to pay in return for providing services within

the criminal process which were previously not available on any acceptable financial basis.

Hon. Mr. McMurtry: I agree with you, but firstly, that is no reason for tolerating the abuses—even if they are small—and I know you would agree with me on that. Secondly, the taxpayers of the province are funding the plan and there was a growing—I sensed some degree of it—disillusionment among a certain portion of the taxpayers in the province with respect to the viability of the plan.

A few moments ago I talked about high profile criticism coming from people who are given a lot of attention, such as Dr. Morton Shulman and what not. I was concerned about removing these abuses where they did exist simply to deprive opponents of the plan of ammunition that could be destructive to the future of the plan. This is one of my prime concerns. For example, in much of the speech I gave at Windsor—which I gather got the Law Society a little up tight, to put it colloquially. Perhaps they expected nothing but compliments from the new Attorney General. I see it was on February 13.

I started at about page 11 telling them about the problems in relation to open-ended programmes; and I said at page 13 and I would like to quote from it: "I must, however, tell you that many of my colleagues in government and the Legislature are far from enthusiastic about either Legal Aid or the legal profession. There is a good deal of scepticism harboured by the public and politicians about the value of Legal Aid. Many, unfortunately, see it as principally serving the lawyers and the criminal element. One of my jobs, therefore, as Attorney General is to communicate to the government and to the public the importance of the Legal Aid system to our basic system of justice.

I would think that would represent some fairly strong statement of support. One of your own colleagues was concerned, even in here, about being inundated by the legal profession as we pursued our deliberations in this committee. Again I went on to say:

"Legal representation is obviously an essential aspect of the rule of law. [I would like to have this on the record here so there will be no misunderstanding as to what I said.] Legal representation is obviously an essential aspect of the rule of law. Legal rights are illusory unless there is some means of effectively asserting them. When we consider the fundamental importance of Legal Aid in this context, the question of cost should be less of an issue but I can assure you that the issue of cost will continue, regardless of how effec-

tively you and I advocate the importance of Legal Aid.

"When the public learns of accused persons who have had 18 or 20 or more Legal Aid certificates for various criminal matters, the public gets damned annoyed. And when the public sees that same person go through a protracted preliminary inquiry, replete with days of cross-examination to elicit evidence that could be obtained in a few minutes at a pre-trial conference, the public becomes outraged.

"When the community sees county court trial after county court trial for matters which could obviously be handled fairly expeditiously and more cheaply "downstairs" the suspicions as to the motives of a few Legal Aid lawyers spread.

"I do not suggest that there is widespread abuse of the Legal Aid Plan but I do suggest that there is enough abuse to effectively fuel the perception of the Legal Aid Plan as a make-work project for lawyers. I have discussed this perception with the Law Society and I am confident that the initiatives that are being taken by the Legal Aid committee will go a long way to remedy this particular abuse.

"However, any widespread public belief of abuse can only lead to more Draconian measures, and the impact upon you and your clients would be severe. I therefore urge you to be vigilant, to guard against abuse, and to suggest any measures that are appropriate to curb abuse. If the profession does not police itself we will be jeopardizing the future of Legal Aid in this province.

"Before the birth of the present Legal Aid Plan, legal aid was often provided by lawyers on a voluntary basis. [And I think it is important that in the next paragraph I reflect on the fact that we may have lost something as a profession when we completely abandoned the voluntary service.] At the same time I recognize that many experienced lawyers make a significant contribution when they take on Legal Aid cases for fees far smaller than what they normally command. The concept of service to the community is now well demonstrated by a number of independent—"

Mr. Lawlor: That sounds like Jim Buckley. Buckley says all forms of social assistance should be wiped out and individuals should be looked after on a personal and voluntary basis as they were in the past, or weren't.

Hon. Mr. McMurtry: I don't see the relevance of that statement, Mr. Lawlor, at all. I believe that lawyers generally are a well paid profession, and certainly lawyers in private practice. The idea of contributing some of

their time on a voluntary basis I must admit still has some appeal to me, but perhaps I am old fashioned. But I would like to put this other statement on the record with respect to what I had to say about Legal Aid clinics because I think it is important. I didn't raise the question of this Windsor speech. It has been referred to on several occasions by the Chairman of this committee, Mr. Lawlor.

Mr. Lawlor: It's this nostalgic regret for a long lost civilization.

Hon. Mr. McMurtry: I go on to state:

"The concept of service to the community is now well demonstrated by a number of independent storefront offices, most of them operating in Metropolitan Toronto. A number of bright, young lawyers are staffing these clinics and supervising para-professional personnel. They are involved in the life of the community round them and most of them are on some form of salary. They often receive a fraction of income compared to what they could command in private practice. Although I am fully aware that this development has met with something less than universal enthusiasm by the private bar, I commend to you the concept of public service as exemplified by a number of these dedicated young men and women. I commend to you their involvement in the life of the community and urge you to support this concept. By being seriously involved in the life of the community one learns a great deal about the public mood, and in particular you have a chance to communicate to the public the positive aspects of the legal profession in the administration of justice."

Now that, on that occasion, is all I had to say about Legal Aid. I do not regret one sentence. I might say that on April 9 I repeated much of this message before the Advocates' Society, in which I stated:

"However, the most important message that I can bring you is that the future of the Legal Aid Plan and the role of the legal profession in that plan depends ultimately on the support of the public. If the public is not satisfied that its funds are being well spent then the entire system of Legal Aid is in jeopardy. We know the fundamental importance of the presumption of innocence, and so on. I mention this not because of any lack of commitment on my part to the Legal Aid Plan. I have always emphasized that the importance of Legal Aid is measured by the fact that legal representation is an essential aspect of the rule of law. The legal rights again are illusory unless there is some means of effectively asserting them.

"However, it is essential that the members of the legal profession appreciate the importance of these public concerns and be prepared to meet them in a positive fashion. For example, it may well be necessary to consider amendments to the Legal Aid Plan which would impose some discretionary limit upon the number of certificates available to any one recipient."

I have been very supportive of the plan in my public statements to the profession. At the same time I have not been reluctant in the past, nor shall I be reluctant in the future, to urge upon our legal colleagues the absolute, essential and fundamental importance of their responsibility to maintain the credibility and the integrity of the plan.

[5:00]

Mr. Renwick: Mr. Chairman, I have always viewed the possible areas of abuse, plus an additional problem in the plan, as four main things—three areas of abuse. The first is within the legal profession itself with respect to the services which they render under the Legal Aid Plan, the accounts which they submit, the time which they give for it and the accuracy of their accounts. I understand that's basically an administration problem and is now basically under control. We are not hearing any more, as I understand it, about something called lawyers abusing the plan.

Is that a fair statement, that the original problem of too many certificates to particular lawyers and poor billing to the Legal Aid Plan for settlement of accounts is more or less under control?

Hon. Mr. McMurtry: We are not satisfied that the unnecessary prolonging of trials is—

Mr. Renwick: No, I'm speaking now of—

Hon. Mr. McMurtry: It has something to do with billing, that's the only reason I mention that context, Mr. Renwick. But I think the administrative procedures have been improved.

Mr. Renwick: I am talking about padding accounts or taking on too many certificates, not doing a proper job, charging the tariff fee on a basis which doesn't warrant the charge being made for it.

Hon. Mr. McMurtry: Yes, I think much of that has been remedied.

Mr. Renwick: The second area we have talked about, and I don't want to belabour it, is the trials and so on. I assume that is,

at least in the criminal courts, a great deal within the control of the assistant Crown attorneys in those courts and the judges presiding, if particular lawyers at the private bar acting for accused persons are abusing the system.

Hon. Mr. McMurtry: I don't know what the Crown can do really. The Crown and the defence counsel, of course, have equal status in the courtroom and that's the way it should be. As I say, I think the judges could do more, but I think on the other hand we have responsibility to develop some concepts to a further degree as to how the judges might actively assist in the removal of this problem. The obvious thing is reporting abuses to the Law Society, and judges are reluctant to do that. I don't think any judge should be given the arbitrary right to deprive counsel of the counsel fee for a specific period of time, but I think judges should be encouraged to report abuses of the Law Society and even make recommendations subject to any review by the representatives of the Legal Aid Plan and any appeal mechanism whereby a counsel can state his position, which may be in conflict with that of the judge for reasons other than the Legal Aid Plan.

Mr. Singer: Can I interrupt on that point? At lunch today Mr. Bowlby, in dealing with the same point, mentioned a particular judge of the Court of Appeal had complained to Legal Aid about abuses by a particular lawyer. Legal Aid had then called the lawyer in. The lawyer didn't come. Legal Aid then struck him off their list permanently. Then I asked, "Did you do anything insofar as the discipline committee was concerned?" And the answer was "No."

Bowlby gave the same kind of comment that you have just given. To what extent can the Attorney General say to the judges, "You are a policeman and we want you to tell the discipline committee about the bad actions of Renwick or others"?

Hon. Mr. McMurtry: We can make that request. We can ask them to assist us but obviously we can't direct them in any respect.

Mr. Singer: The bench in charge of the Legal Aid committee didn't seem very optimistic about getting very far.

Mr. Lawlor: That lawyer came back a few months later, wrote a letter of apology to the judge in question and got reconstituted.

Mr. Renwick: Whatever the solution to the problem, I hadn't thought of it in those terms. I had thought of it in relation to the Crown attorney in the court and the judge on the bench being able to control, within their own sitting, abuse of the process whether it's intentional or otherwise on the part of the lawyer appearing before the court. I recognize the difficult problem but I would suggest it would occur regardless of whether or not there was a Legal Aid Plan, assuming people had enough money to get to the courts.

I guess the point I am trying to make, and I don't want to get bogged down in it, is that for some reason or other it's a part of the critical phase that the Legal Aid Plan is going through. The Attorney General is a better assessor of public opinion than I am, maybe because of this abuse, but focusing on abuse is seriously affecting the operation of the plan.

All I am saying, by the questions I raise, is that if it is—and I have some serious reservations as to whether there has been more or less abuse because of the Legal Aid Plan at all—I think those are matters controllable by the administration of justice; controllable by the ministry which is responsible; and controllable in the courts where it does occur. It is not a matter which should be used or related to what is best for the constituency for which the Legal Aid Plan is providing the necessary service.

I want to get on from that. I want to set the abuse apart.

Hon. Mr. McMurtry: I just want to interject this comment. I have said to lawyers—I made those two statements in February and March or April; I think those are the only public speeches in which I have even referred to this problem. I believe very strongly that lawyers can remedy these problems if urged, but it's also been my experience—I am thinking of my own years in private practice—that the law profession has to be made aware, sometimes in fairly direct terms, that there are problems which have to be remedied. Without making that clear, without being fairly direct at times, there is, as I referred to earlier last week, a tendency for some of our colleagues to bury their heads in the sand.

If the Legal Aid plan, and I don't want to repeat myself unnecessarily, has any abuses they have substantial impact on the courts, quite apart from the cost of the Legal Aid Plan. I have to be concerned about the effective use of the courts. I can tell you that since some of those statements have been

made there has been far more enthusiasm among the responsible elements of the profession to assist the Ministry of the Attorney General and I hope to assist the profession and the credibility of the profession in straightening out these problems.

I am not sure I understood you perfectly, Mr. Renwick, but I haven't been preoccupied with the abuses and I don't want you to think that I have necessarily focused public attention on any of the abuses. I think I have been reasonably moderate in what I've said. I have not been involved in any unnecessary repetition in public forums of this problem because obviously if I was there would be a danger that the perception of the public—or the public could receive a misconception or further misconceptions aided and abetted by me. I have been very conscious of that.

Mr. Renwick: I would risk my view as to where the misconception came in, and whether it was misconception or whether it was part of a deliberate programme of the Attorney General in making those addresses at the time he did or whether it was an unhappy conjunction of two things that caused the problem. The problem was definitely created and I think it's affecting the functioning of the plan significantly in diverting attention from the proper perspective. I don't think it was ever clear that the Ministry of the Attorney General agreed with the Law Society of Upper Canada as to what the cost of the plan would be estimated to be for 1976-77.

I think, as a result of that not being clear and your speeches coming at the same time when the full impact of government cutbacks in various services was taking place, those interested in the functioning of the plan, and the Law Society as its administrator, became quite up tight about the conjunction of your telling in public statements about these abuses and focusing on this criticism of the plan out there. It had the effect, very clearly, of making people link the two, or simply created it in the public's mind and underwrote whatever concerns there may have been out there that there were widespread abuses in the plan. If the Attorney General will permit me to be, perhaps, politely difficult on this question, I think that's where the problem was created. I think you created it.

Hon. Mr. McMurtry: I simply totally disagree with your interpretation. I think it is something less than objective because the government restraint programme was announced some time before any of these ad-

resses were made. As I say, my relationship with the Legal Aid committee of the Law Society for the past year has been a cordial and positive one.

Mr. Renwick: I understand. All I'm saying is, objectively, I draw the conclusion that when the question of the impact on something called social services was at its height, as a result of government cutbacks—whether they were necessary or not it is not for us to argue—that was joined with deliberate addresses made by you, as you have explained before the Advocates Society and before the Ontario Law Society. You created this problem because—

Hon. Mr. McMurtry: The problem was created long before that. For example, colleagues of ours in all three parties in the House certainly expressed their concerns to me with respect to the plan and expressed their concerns prior to these speeches. There is a widespread feeling among the judiciary that there were significant abuses of the plan and judges are quite free to make their opinions known to colleagues of ours and others. At the time I arrived there was a problem and a growing problem.

My concern was to nip it in the bud, as it were, and I think that we've achieved some degree of success. The problem with respect to the credibility of the plan within the legal profession had been growing for many months.

Mr. Renwick: I'm not interested in argumentation on the origins of it or otherwise; I'm talking about this year. I'm very much concerned because, referring to this quite valuable little booklet which was available to us prior to the discussion today, which I was unable to attend, as everyone knows about one-third of all Legal Aid activity in the province originates in the judicial district of York, for practical purposes. At the height of this problem, this spring—which is causing me the problem and, I think, causing the plan the problem as to where it's going—certainly the constituency being served is being affected by it.

[5:15]

I quote again from Ron Ellis's letter to convocation. He said:

"The York area committee, which is responsible for the working of the Legal Aid Plan in the whole of the York county and which is much closer to the day-to-day workings of the plan than either the Legal Aid committee or the benchers, had the issues in proper perspective when it decided at its meeting on

March 31, 1976, to recommend to the Legal Aid committee that it reject any suggestion of waste and abuse within the administration of the Legal Aid Plan; that it recognize that budget cuts of the magnitude suggested will result in the elimination of needed and necessary services; and that it oppose the reduction of the 1976-77 Legal Aid budget with all possible strength [or whatever their remarks were]."

That's a knowledgeable committee and they are, as they say, pretty close to the functioning of the system.

In any event, let's assume for the moment that the abuses can be remedied or are in the process of being remedied. Let's perhaps talk a little bit about four or five areas where I would like to have some response and see whether or not we're talking about the same problem.

Again, just to give it a figure, this particular folder says, about two-thirds of the legal profession are registered under the plan. How often they're called upon, I don't know.

In my experience, very few of what I could call lawyers in the intermediate range of legal practice—lawyer with, say, eight to 18 years' practice at the bar—are participating to serve those areas of the constituency that require service; the great bulk of the work under the Legal Aid Plan is being done by very junior lawyers—regardless of how bright or how skilful they may be, they are very junior at the bar—and/or by the Student Legal Aid Societies.

It is those areas which are touching upon the constituency being served, and the constituency being served is suffering, not because the motivation for the Student Legal Aid Societies isn't good and not because it isn't good that young lawyers are bright and interested, as the minister says; but you pay a price if you're talking about having access for the constituency for whom the plan was originally devised to a legal system which in major areas of the areas of concern is dependent upon either students at law or members of the bar who have recently graduated and who may be subject to double pressures: (a) having to earn a living and (b) therefore having to take on more work than they can possibly handle, which may affect the services rendered, and for them having to expend of necessity likely more time in dealing with particular cases simply through a degree of inexperience involved.

Again, this particular report, when it talks about Student Legal Aid Societies at page 13 of the brief for the justice critics' meeting on

November 1, 1976, contains an absolutely magnificent statement:

"It augurs well for the continuing awareness of the bar to society's needs in this area [he's talking about student enrolment participating actively in the student plan] that the services being provided by the students arise out of referrals from the appropriate area directors or where the student societies themselves have established that the citizen lacks the appropriate finances and the services fall outside the normal scope of a lawyer's work. Included in this broad field are landlord and tenant matters; small claims court appearances; debtor problems; defence to charges under The Highway Traffic Act, The Liquor Control Act and municipal by-laws; problems with municipal welfare and family benefits, Ontario Housing, workmen's compensation matters and various boards and tribunals."

In a very real sense, leaving aside the criminal process as such, the very constituency which needs to be served is not being served by the intermediate levels of the bar. I make that as a very categorical statement until such time as somebody, statistically, tells me otherwise. I have no way of knowing, but I am extremely concerned about that particular problem because as anyone knows, when one looks at this kind of a constituency that was to be served, we have the situation that—

Hon. Mr. McMurtry: May I just interject here, Mr. Renwick, and say that I think your assessment as to who from the legal profession is participating in the Legal Aid Plan, from my experience and from my knowledge, is probably quite accurate.

Mr. Renwick: If the ministry wants to get an actual understanding, to the extent that statistics are a part and only one part of that understanding, I think there are some statistical questions that the ministry should be asking of the Law Society—not from the point of view of criticizing but for finding out. One of the specific areas of information is the age or the experience at the bar of those involved.

Hon. Mr. McMurtry: May I just ask for a point of clarification? Assuming the statistics we receive or obtain bear out or support your own personal assessment, which I said, agrees with mine, where does that lead us? Or where should that lead us, in your view?

Mr. Renwick: Perhaps I could come back to your comment where you were asking

whether, until the fundamental Osler decision was made, it should be in some form of a public corporation with proper representation from the various people involved in it or is it part of the evolution? In a non-argumentative sense, it may very well be that the nature of the Law Society of Upper Canada, as it has been historically constituted with the responsibilities it has by statute and in the tradition of the bar, is such that it is not possible for that society to adequately meet the needs of the constituency which is required, and that a foundation, Legal Aid Ontario, or whatever you want to call it, may very well have to become a body which will provide specifically qualified people who will be able to deal with the range of problems to which the constituency served by the plan is entitled.

I get quite upset when I read a statement like that, that that's what students at law are doing—able, interested, concerned or whatever way you want to express it. But if we are talking about access to the Legal Aid system equally for all, then you've got to address yourself to the fact that different people have different needs of access for different purposes.

There are very few people in Riverdale riding that need access to the system, even if they could pay for it, in order, for example, to float a bond issue on Bay Street. They don't need that. The qualitative difference in the services is what is required. One could talk at considerable length about the range of services provided by the legal profession to well-to-do people in the corporate and business community.

I want to say that in areas of concern to the ordinary citizen the range of services is now not being provided. If I could use one example—

Hon. Mr. McMurtry: While you're looking for that example I'd like to be quite emphatic—

Mr. Renwick: I have found it.

Hon. Mr. McMurtry: —that I'm of the view that the range of problems you refer to are more adequately served in many respects by the junior lawyers and often the law students than they would be by the senior Bay Street lawyers. I would sooner see some of these problems handled, for example, by some of the people who are operating these neighbourhood law clinics. I think the recipients and the constituency you refer to would probably be better served by them than by the senior partners in many of the large Toronto law firms. I would have

thought that you'd probably agree with that but I'm not sure now. In any event, you had an example. I'm sorry for interrupting; perhaps I shouldn't have.

Mr. Renwick: I don't want to reply within that context because that becomes an elitist game. The natural reply for me to make to that situation would be that if John Robinette appeared once before a rent review officer in Metropolitan Toronto that may change the whole nature of it so the law students from there on in could handle it more readily because they would never know when John Robinette was going to appear the next time. Or you can make the argument that if John Robinette or George Finlayson or Ian Scott or one of the well-known counsel downtown appeared at the Workmen's Compensation Board on a difficult case that might iron out some of the problems which are involved before the Workmen's Compensation Board.

I can assure you if one of them appeared before—what do they call it, SARB? The Social Aid Review Board, I guess it is—that would straighten out that board very quickly about how you treat people who are applicants or supplicants before it.

I don't want to get involved; that's an elitist argument. I'm glad to know about the community projects which are being funded now, because unless you give full support to that type of development you're not going to have the kind of people with the kind of skills which will raise the level to a high level of expertise. And you will not have people with such a standing in the community that they can see abuses of the process; built into the system in many cases before the Workmen's Compensation Board. You're not really going to serve the constituency which deserves to be served.

I don't know; I don't really believe—we're probably talking at cross-purposes—

Hon. Mr. McMurtry: I don't think we are.

Mr. Renwick: I am simply saying that all the arguments we have seen about the plan, the confusion which has come in to the operation of the plan and the hesitancy by the government to deal with a number of the recommendations made to the government, have led to a situation in which the people who are now being hurt in the fiscal year 1976-77 and will be hurt in 1977-78 are the very constituency that the plan was originally designed to assist.

Hon. Mr. McMurtry: I have to take issue to some extent with the direction or tenor of

some of your remarks because one of the problems facing the Law Society and many of the very dedicated lawyers—starting with John Bowlby—who are very much committed to the plan, and others in Toronto and about the province, is that they don't know what the future of the plan is going to be in relation to whether or not, for example, it's going to be administered by the Law Society.

[5:30]

I have had representations made to me from every county in the province of Ontario and a number of these lawyers have made it very clear that if the plan is not going to be administered by the Law Society they are going to lose interest. As to whether they are right or wrong to take that position, I express no point of view at the moment. I think I indicated some sympathy for their point of view last week, however.

I agree with you that as a government we have a responsibility to let them have some idea as to where we are going. Obviously, one of the difficulties I suppose the government is having or that I am having specifically as the Attorney General in making precise recommendations to my colleagues is reflected by the fact that I detect differences within your own caucus. There are two lawyers for whom I have personally a very high respect in legal and other matters and I see a very basic difference of opinion between you and Mr. Lawlor. I am not criticizing that. I am just saying it reflects to some extent the difficulty of the decision which has to be made in this respect.

Mr. Renwick: If I may, any differences that Mr. Lawlor and I may have, apparent or otherwise, are all resolved, fortunately for us, by convention of the party. In June of this year at Kingston—I will not read the rhetoric of the recitals to the resolution that was passed by the convention but the policy of the New Democratic Party now is specifically as follows and I quote the operative parts of the resolution on Legal Aid passed at that convention:

"Therefore be it resolved that the mandate of the Legal Aid Plan of Ontario should be expanded to include clearly the financial support and encouragement of alternative modes of delivery including independent community-based legal services clinics, community legal education projects and community training for lay delegates and para-legal personnel.

"Be it further resolved that Legal Aid should be provided as a matter of right in all litigious matters including small claims court actions, class actions and representations to

legislative or regulatory bodies and Legal Aid should be made available as a matter of right for preventive legal assistance including the drawing of documents and negotiation of settlements.

"Be it further resolved that the New Democratic Party of Ontario regard it as inappropriate that the control and administration of the Legal Aid Plan should remain in the hands of the Law Society but endorses the principle of public control of the Legal Aid Plan;

"Be it further resolved that the administration and control of the Legal Aid Plan should be vested in a non-profit corporation or other regulatory body created and governed by provincial statute and more than half of whose members or directors are chosen by and are representatives of those groups and individuals served by Legal Aid;

"Be it further resolved that a New Democratic government would effect an immediate and substantial increase in the funds allocated to the delivery of Legal Aid services in Ontario."

For what it's worth, that's the resolution of any possible difference there could be between Mr. Lawlor and me.

Hon. Mr. McMurtry: I am grateful for that information because, as I say, I wasn't aware of it before. It certainly indicates the potential for a highly partisan issue when this matter is brought up in the House because there are obviously some very fundamental differences of opinion—and certainly, I suppose, of philosophy, too—between many members of the Legislature and the position of the New Democratic Party as to who should administer the plan.

My concern is that if this was withdrawn from the Law Society at this point we will lose the interest, the assistance and the involvement of a very large percentage of the profession. Every county law association in this province, I repeat, has indicated as much to me. All I say is that the problem of getting the middle-level lawyer, as I think you described him, involved in the plan may well be enormously compounded if the government were to follow or adopt a policy recommended by the New Democratic Party in relation to the administration of the plan.

Mr. Renwick: I don't happen to have that particular view of the profession that you have. I think it's fair to say the profession has always indicated that if a restructuring of the plan would provide a better service for the constituency it was designed to serve, the profession would respond to that.

It would have to be done well and it would have to be done properly as always. But whether this government is a Conservative government or a New Democratic government whether it's a majority government or a minority government doesn't really matter. Regardless of what you do while you are the Attorney General of the province you must focus your sole attention on the constituency being served, and are the dollars which are being spent for the plan providing the legal services which that constituency needs expertly, efficiently and at a financially bearable cost.

I happen to think the present operation of the plan, unless the Law Society substantially restructures its attitude toward it, will not be able to do the kinds of things which are required—I think in a sense you may agree with that—because you do not get lawyers of intermediate standing at the bar interested in any way, with some exceptions as always, in that range of problems with which most people are confronted and have to deal in a very expert way.

Hon. Mr. McMurtry: May I inquire again, as a point of clarification, as to any proposals that you might have for the restructuring of the plan in the manner in which you suggest. Whether you would like to give them to me now or later during the estimates or at some other occasions, that of course is entirely up to you. But I'd like to indicate to you, Mr. Renwick, that I'd be very grateful to have your specific suggestions.

Mr. Renwick: I know you are always receptive to my suggestions and I'm always receptive to any information that you would provide that would enable me to make useful suggestions to you. I take it—and it's taken a long time to find out—the government is now opposed to the recommendation of the Osler commission with respect to the restructuring of the Ontario Legal Aid Plan, because you think there will be a massive withdrawal of services of lawyers from that plan.

Hon. Mr. McMurtry: I think I should make it clear, and I attempted to be as frank as I could with this committee last week, that that is my own present view, it is not the view of the government. I honestly don't know what the view of the government is because, as I say, it simply hasn't been manifested. But I indicated that my own particular bias—which is subject to change as I suppose many of my other biases are—is to leave it with the Law Society, assuming

there are certain other commitments by the Law Society along the lines of serving, as effectively as possible, the constituency that you speak of. Any recommendation to the government, to my colleagues, would be conditional on my being satisfied that this was occurring.

I don't want to take unnecessary time but I think I did try to indicate the extent to which our ministry had been involved in obtaining assurance from the Law Society with respect to funding of these community clinics. This is something we can demonstrate; that some 13 clinics are now on a much better funding basis than they were last year and this is one of the commitments.

Again, my recommendation has not been made so I cannot honestly state what the view of the government will be. I am earnestly attempting to find out as much as I can. Perhaps I should have made greater efforts earlier but I am earnestly attempting to find out what the views are of my colleagues in the Legislature in all three parties.

Mr. Renwick: I can assure you that the reason this resolution went before the convention in the form it did—it originated not with me but within my riding association and there is no input of mine in that—but the people in my area, and I guess the view is shared by another area, are saying to the government, "We passed that kind of a resolution at our convention because the Legal Aid Plan is not serving the constituency that it was designed to serve."

What I have tried to say previously is, and without repeating it, it needs to serve that constituency. We have got to start looking at that constituency in a very real sense as to those needs of access to the legal system, in the broadest sense of the term, in the areas that I quoted from this, which is now becoming the preserve of the law students, and the similar part of the criminal jurisdiction is becoming the preserve of lawyers who have only had a very short experience at the bar.

Ms. Sandeman: Could I add one very small thing to what Mr. Renwick is saying? He speaks from the perspective of the Toronto bar and while it is true, for the various reasons he has pointed out, that it is not satisfactory that the law students are picking up the majority of work in the areas that he quoted, for those of us who live in smaller communities there is very often nobody able to pick up that kind of work for the client, for the constituency that Mr. Renwick has

mentioned. So you have an even worse situation out there, away from York county, where there are no law students to do it for us—for the Workmen's Compensation people, for the rent review boards, and so on and so forth. I think it is something, as Mr. Renwick says, that we must address ourselves to.

Mr. Renwick: I have two or three related matters I want to deal with, if I may briefly.

This statistical problem of which you have my original copy. I would like to make obvious first of all an error in that on the front page: "Persons assisted by duty counsel." If you check the sheet, it goes down from 26,120 to 25,651, so in fact there is not—I think that is just the error. There was a decrease as you will note; the figure should be 25,000 for whatever it's worth. But that's not my principal concern. My principal concern is to try to deal with the statistical part of it.

I don't know whether the Attorney General noticed the letter that was in the—I guess I should be somewhat more careful and more accurate about what I am going to say.

The Law Society communique of July 27, 1976, which my colleague referred to, stated, and I quote:

[5:45]

"For the first time since 1970 there has been a decline in the demand for Legal Aid. A statistical report from the Legal Aid committee presented in convocation today shows that in April and May of this year compared to the same months a year ago, applications for Legal Aid dropped by 11 per cent and 15 per cent fewer certificates were issued, informal applications for Legal Aid dropped two per cent and the number assisted by duty counsel fell off by the same percentage.

"The rate of refusal of formal applications rose slightly from 26.9 to 30.9. There is no apparent reason to account for the diminished call on the Legal Aid Plan by members of the public and it is too soon to know whether this represents a trend that will continue."

Without reading it into the record, I would draw the attention of the ministry, if they haven't already noted it, of a letter which appeared in the *Globe and Mail* on August 23 from Philip Rosen, the programme director of the law and social development programme of the Canadian Council on Social Development in Ottawa, raising some very serious questions about the implications of that statistical material, again related to the question of the constituency that the

plan was designed to serve. My friend, who spoke with me about this matter, made this particular comment: "It seems that the reduction of 11 per cent in the number of formal applications made is a complete red herring for precisely the reasons set out in Rosen's letter to the *Globe*." Also it is not clear what they mean by "informal applications," and then there are various analyses of some of the information. My colleague goes on to say: "I'm also a little suspicious about how the number of 'informal applications' is counted. Somehow it doesn't relate to population;" and he gives further information, which I can provide very readily.

"The other thing about informal applications is that it takes into account, I would think, only inquiries which actually make it to the Legal Aid office." They talk about the lack of advertising and all that material. What I think the people who talked to me about that statistical information were trying to say, in the comments which they gave to me and which I don't want to take up the time of the committee to quote in full, was that it's becoming difficult to get from an informal application to a formal application. It's the administrative structure of the Legal Aid Plan which is becoming very much like the structure of the immigration of Canada—it's a concertina. Sometimes it's open and sometimes it's closed, and depending upon the policy of the government it reflects itself in the administration of the plan. There is a subtle element of dissuasion going on that prevents people from going to the plan and actually getting to it. There are a number of examples around. One of them is the one which my colleague referred to, where somebody between the age of 16 and 18 is charged with a criminal offence and there is an effort made to require the parent to go on the application with respect to, say, a lien on a house when there is no obligation of responsibility for a parent for a child over that age charged with a criminal offence in our society. There is the question of when two persons who are not divorced, or one of them is not divorced and they're living in a common law relationship and for the reasons of the one person's own particular mental health they want to proceed and get a divorce. You find the investigation comes through and one person can't get the divorce unless the person with whom they're living in the common law relation indicates they will contribute to the cost of that application. The matters are not related in any way.

There was the other one which was floating around for a considerable period of time, that you couldn't get a divorce for whatever

the reasons happened to be unless you could sort of indicate that you were waiting on the threshold of the next marriage, and it could just limp on that way. I think if the ministry were to examine the tone of the letters by which the communication is made to people, you would find it leaves a lot to be desired in relation to simple politeness of the form of expression of the letters.

But we are gradually building in, and this is what makes me concerned, when you take it into conjunction with the atmosphere of the last six months at least, you have got some inhibiting factors growing into the administrative functioning of the system. I tried to mention a few of the instances, but it's more than that. It's the same kind of problem, as I indicated, that sometimes it is easier to get into Canada via either student visa purposes, visitor's permit, landed immigrant status, than it is at other times. When government policy constricts, and this government policy seems to be in a state of structural rigidity at the moment, then you find that it affects the operation of the plan.

I have gone on at some length and I guess I feel strongly enough about these matters that I could go on at some other matters. I think you have got to decide what you are going to do about Osler. That doesn't mean you necessarily have to make the change overnight, but if you decide what Osler said is worth canvassing then the structure of it will have to be done with broad consultation with the profession, with the constituency being served, with all of the various elements who are interested in that working to see whether a restructured Legal Aid Plan is required, as a public corporation of some kind or whatever the nature of it is. You have got to start to make that decision and indicate so.

Hon. Mr. McMurtry: If I could just interject, surely wasn't that what the government had in mind when it commissioned Mr. Justice Osler to make his report to the government?

Mr. Renwick: It won't be the first time that the government has studied a study that was made, and I say in this particular case because of the Attorney General's sense of the intransigence of the profession to any change, and I don't underestimate it because I tend to share it, that you have got to go about it in such a way that you will maintain the loyalty and adhesion of the profession to the plan as restructured.

I have no doubt whatsoever, if what we were taught in law school has any meaning at

all—that we are officers of the court, that we have an obligation to the administration of justice—that if the government of the province restructures the Legal Aid Plan in the assembly there is something more going for the adhesion of the lawyers to the plan than somebody to say to me that there's going to be a massive withdrawal of their participation in it.

I just don't think so. I am asking for an objective look at a very simple but complex question; that is, what is the constituency that in our society in the latter part of the 1970s requires access to the administration of justice in its broad sense, including all of the items that were listed in here, or the broad context we used to call in the sixties "poverty law," whatever that term means. Is the plan meeting those needs? And is it meeting them by qualified people? If there are different ways of meeting it, then I think they have got to be devised.

I was fascinated—and I am sure my colleagues from the north will be fascinated—by the list of things about improving Legal Aid in the north, and I see those suggestions have been made to the Attorney General recently as to how it's to be done.

I can only talk about the judicial district of York area. My colleague Gillian Sandeman from Peterborough has different problems there. I think you've got to tell us very soon where you stand on these matters. I think you've got to face up, with the government, to the fact that you have to extend Legal Aid. Yes, in this year's estimates of the Law Society the level of Legal Aid being provided is consistent with what that cost was going to be, but the Law Society itself wants to reject any suggestion that they want any reduction. I quote from the bulletin of the Law Society about convocation; this is April, 23, 1976:

"Convocation had before it submissions from groups and individuals urging it to refuse to co-operate with the government's plan to reduce the Legal Aid budget. During a full discussion of the 39 benchers present, it made two things very clear: First, They are strongly opposed to Legal Aid services being reduced; and, second, as administrator of the plan, the society is not the policy-maker. The government makes the policy and when it has decided what changes it considers necessary to keep the plan within the government's present financial limits, the society will carry out its administrative duties."

I've heard it put in different ways. I've also heard that if you change the plan, the Law Society may disagree with it but they'll go along with it.

It's nearly 6 o'clock, and I'm sure you're pleased, but my sense of the discussion we've had about Legal Aid is that somehow it has become amorphous. Somehow it has become a kind of quagmire. Somehow or other we're at a halt. Somehow or other it is being diverted into considerations which are important but not relevant to the main issue; that is, are we serving the constituency that it was designed to serve? The Osler report made certain very significant comments. A number of them have been implemented; I don't know exactly which ones, because the Attorney General hasn't responded to the request, but there is some progress.

Hon. Mr. McMurtry: Just a minute. I haven't had an opportunity to respond. We've had a number of people working very hard to respond. There are a certain number of accusations which I will take less tolerantly than others, but we've been ready to respond. I'd like to respond for a minute and a half, Mr. Chairman.

Mr. Renwick: Yes, I wouldn't want any one to think for a moment that I've necessarily completed, but my guess is that I probably have completed my remarks.

Hon. Mr. McMurtry: We haven't been placed in any kind of rigid straitjacket. First of all, I've indicated my support for the Osler recommendations—and I want to repeat this—in relation to developing alternative methods of delivering Legal Aid, most noticeably through the clinics. It should be noted, even if we are repeating it, that in the past 12 months we have placed 13 of these community clinics on a much sounder financial footing than they had been a year ago.

As you know, Mr. Renwick, and as you point out, part of the process is to educate the legal profession, to win them over as it were to needed changes rather to impose upon them and then risk a massive withdrawal of support. One of our challenges is to convince the legal profession as to the value

of these community clinics, because there is not a widespread acceptance in the legal profession. As I'm sure you know, many lawyers view these clinics as very threatening. First, they suspect they can undermine the traditional concept of fee for services, which is dear to many lawyers.

[6:00]

Second, they regard them as the forerunner of a form of public defender system, which you know meets with widespread opposition in the legal community.

Part of our task during the past 12 months has been, first, to place these clinics on a sound financial basis and, second, to convince our colleagues in the legal profession that some of these clinics can more effectively serve the constituency you mentioned which has this wide range of problems that most lawyers practising today quite frankly aren't particularly qualified to deal with.

I don't want to take any more than another half minute, Mr. Chairman, but I think the fact that these clinics have been as active as they are has resulted in the reduction of the number of Legal Aid certificates. Certainly one interpretation that we think can be placed on the statistics with respect to the number of certificates that have been issued and applications in relation to any reduction, is the fact that a number of these applicants are now being served by these clinics who would otherwise receive some form of certificate. In our view, that is one of the reasons why these applications and the number of certificates have been reduced. As we conclude, I would just like you to consider that interpretation.

Mr. Vice-Chairman: We will adjourn until after question period tomorrow. I remind you that we will not sit either tonight or tomorrow night.

The committee adjourned at 6:01 p.m.

CONTENTS

Monday, November 1, 1976

Administrative services programme	S-2493
Programme administration	S-2493
Adjournment	S-2518

SPEAKERS IN THIS ISSUE

Breaugh, M.; Vice-Chairman (Oshawa NDP)
 Lawlor, P. D. (Lakeshore NDP)
 McMurtry, Hon. R.; Attorney General (Eglinton PC)
 Renwick, J. A. (Riverdale NDP)
 Sandeman, G. (Peterborough NDP)
 Singer, V. M. (Wilson Heights L)
 Stong, A. (York Centre L)

Ministry of the Attorney General officials taking part:
 Callaghan, F. W., Deputy Attorney General
 Campbell, A. G., Senior Crown Counsel, Policy Development Division
 McLoughlin, B. W., General Manager
 Stone, A. N., Senior Legislative Counsel
 Wright, B., Assistant Deputy Attorney General, Civil Law



Government
Publications

Legislature of Ontario Debates

SUPPLY COMMITTEE—1

ESTIMATES, MINISTRY OF
NATURAL RESOURCES

OFFICIAL REPORT — DAILY EDITION

Third Session of the 30th Parliament

Tuesday, November 2, 1976

Afternoon Session

Speaker: Honourable Russell Daniel Rowe

Clerk: Roderick Lewis, QC

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CONTENTS

A list of the speakers taking part in the debates in this issue of Hansard appears, in alphabetical order, at the back of this issue.

Daily contents of proceedings also appears at the back of this issue. Reference to a cumulative index of previous issues can be obtained by calling the Hansard Reporting Service indexing staff. (Phone 965-2159)

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LEGISLATURE OF ONTARIO

SUPPLY COMMITTEE

TUESDAY, NOVEMBER 2, 1976

The committee met at 3:23 p.m.

ESTIMATES, MINISTRY OF NATURAL RESOURCES (continued)

Mr. Vice-Chairman: Is there a quorum? Let's get started with this committee or we'll never get finished.

Mr. Haggerty: Mr. Chairman, I see a quorum.

Mr. Vice-Chairman: It is my understanding that we will continue the committee until 6 p.m. and then meet again at 8 p.m.; and we'll go from 8 p.m. to 10:30 p.m. We'll take it from there, okay?

Hon. Mr. Bernier: What about the presidential election campaign?

Mr. Vice-Chairman: Do you want to knock off for the presidential election campaign?

Mr. Ferrier: It won't be final until late tonight anyway.

Mr. Vice-Chairman: Since there seems to be some problem in getting these votes through we'll get the speeches down to a minimum and see if we can't get a few votes through today.

We're on vote 2303, item 1. Mr. Ferrier is first; Mr. McKessock, and then Mr. Lane.

On vote 2303, outdoor recreation programme; item 1, recreational areas:

Mr. Ferrier: I have three items that I want to deal with on this first item as far as recreation land is concerned. I make the same pitch every year as far as the Pierre-Montreuil park is concerned, northeast of Iroquois Falls. I'm sure the minister hasn't got this down for development next year. Again, it's a park that would provide a great deal of benefit for people in the Iroquois Falls area; and to a lesser extent I suppose the Cochrane area.

It's an area that is being utilized to some extent now. I'm not sure how much work

ministry personnel are involved in as far as cleaning it up and providing some supervision are concerned; in some of these areas, if they're not properly supervised, this can lead to a serious deterioration. I would hope that the minister and his staff have not made that park so far down the way that we're not going to get some benefit from it very soon. I think the people in Iroquois Falls have been very patient, waiting; year after year after year they've made representations and I've made them here.

That's an area of the province that is not experiencing the great boom that some other areas are. It's tied to pulp and paper and we know what kind of an experience we had last year in that industry. I think that if the ministry can see its way clear within the not too distant future to go ahead with that park, it will provide a great deal of benefit to the people of northeastern Ontario but more particularly for Cochrane and for Iroquois Falls.

I would like to know, Mr. Minister, if that's still on the drawing board and how long we may have to wait for that particular park. Maybe you can answer that question first then I'll go on to the other two items.

Hon. Mr. Bernier: Mr. Chairman and members of the committee, in connection with park development I think if you will read some of the comments I have made over the last year or two you will know this is one area that has been hit severely with regard to budgetary cuts and constraints. I'd love to be able to say to you that we'll develop Pierre-Montreuil park next year—there is no doubt about it that I'd like to be able to say that. I'd like to say that to a number of other areas.

We have to look at the priorities and the usages and the demands in specific areas and in that particular area you accept the fact that there is a considerable amount of Crown land that is open to the public for their use on a 21-day basis without any other restrictions. They don't have that same opportunity of using Crown lands in southern Ontario because there isn't that quantity. It's difficult,

even for a northerner like myself, to accept that fact but this is the way it is.

Certainly I'll make sure that this particular park development is carefully looked at when the budget programme is sorted out and if there is some way we can scare up some management dollars or some development dollars then we will. I just don't think I can give you a commitment at this time, but we'll certainly put it into the bag and we'll have a careful look at it.

Mr. Ferrier: We want you to keep it on the drawing board and when money does become available we want you to go ahead with it.

Another area—and I'm not speaking with too much personal knowledge but our critic Elie Martel was concerned that it be brought up. Elie's been quite ill, by the way, and I don't know whether he's making much headway or not.

Mr. Reed: He got lost in that big house of his and they haven't found him yet.

Mr. Ferrier: He's not too well and we sort of wish him a speedy recovery.

Hon. Mr. Bernier: We certainly do. We miss him in the Natural Resources estimates.

Mr. Ferrier: It's not nearly as lively as when he's here. He makes some very good and worthwhile points. I think the people of Ontario are worse for his absence; even though we enjoy him here I think he does a good job for the province.

It concerns a park at Lake Wanapitei. A great many people use this lake park. I don't know whether that's a provincial park or not, but he said "people are travelling 20 miles over a dirt road to get to a superb camping area, but not a stitch of work has been done on that road." There is supposed to be a report that is being done on that particular park, or proposed park, and I'm wondering if it might be possible to get a summary of that report to know what's in store for that area.

Hon. Mr. Bernier: Mr. Eckel, would you give us a report on the Lake Wanapitei Park? I believe we were doing some development work this year but to what extent I'm not sure.

Mr. Eckel: Wanapitei Lake is a park reserve and there has been some inventory work done in gathering a picture of the resources for the park. If the question was can

the member have an indication of the extent of that work, then certainly we can provide that. Was that the intent of the question?

[3:30]

Mr. Ferrier: I think we would like to have a summary of the work that has been done and where it now stands. Send it either to myself or to Mr. Martel.

Mr. Eckel: All right, this can be done.

Mr. Ferrier: We would like to have that.

Hon. Mr. Bernier: We will make sure that you get a copy and Mr. Martel. We know of his interest and his concern because we have discussed it on many occasions here in the estimates.

Mr. Ferrier: That's fine. Now, the third area that I want to deal with is the Algonquin Park situation. Again, I am not as conversant with it as I once was but there are a number of the park policies that apparently have not been implemented yet like the can and bottle ban. My understanding is that in 1975 it was the ministry's policy to prohibit non-burnable, disposable food and beverage containers in areas where there is no waste collection service.

I know Mr. Frost, when he was chairman of the committee, was quite concerned about that. In fact, the committee went so far as to buy him a wine skin should he want to take a little trip back in there and not be able to take that commodity in the usual container. The committee was quite unanimous on that recommendation and I don't think it has been implemented. I don't know why it hasn't. I would like to see some action taken on this.

Another area where, I am told, the policy hasn't been implemented: In 1975 your ministry was to restrict the use of motor boats on Opeongo Lake and 26 cottage lakes, and water skiing was to be restricted to 11 cottage lakes. I don't think either of those policies has been implemented either. Some of us wondered about motor boats in that park anyway, but particularly when the ministry did agree to those restrictions and they haven't been implemented.

It's all right to say we have implemented most of the things. But these are part of your policies and you have had time limits on them and you haven't carried them out. Now, we would like to know what you are going to do about those.

I wonder if the minister could table the management plan for logging and the plan

for regeneration that the Algonquin Forest Authority has for their work in Algonquin Park.

Hon. Mr. Bernier: If I could just respond to those items, Mr. Chairman. I'll ask Mr. Eckel to elaborate further. In connection with the policies accepted from the master plan, we have announced a number of directions, at least a number of acceptances of those policies. I think we realized very quickly that there has to be a period of education of the general public. This time period, this pause that we are going through, is an effort to educate the public. If you will note, by our pamphlets that we are distributing in the park itself, we are letting the public know these things will happen to get them adjusted to it. Mr. Eckel might want to just elaborate on the specific ones that we have implemented and where we stand with the bottle ban.

Mr. Eckel: The point that you mentioned we refer to as prescriptions under the master plan for the park. The park plan prescribes that certain things be done. We have in place at this time the access point quota prescription covered in the plan; that is, to relieve some of the pressures from some of the more popular spots, access points into the park. We have in place, also, a party-size limit in the interior use of the park. We also have the cacheing of boats. This was also a prescription in the plan. We have restrictions on cacheing of boats in place. It is restricted now to the north end of Lake Opeongo. The length of stay in the interior of the park also is prescribed by the plan, and we have this in place now. Close to access points in the interior of the park, the restricted stay is one night, and distant from access points, the stay is restricted to 16 nights.

With respect to motorboats, it is agreed that it is desirable to ban them. It is in the plan and we are determined that it will come to pass. It has been recognized that suddenly to apply this ban is going to work a hardship and it is going to disrupt traditional ways for the people living close to the park. The intention now is that in 1977 we begin phasing in the ban. You may well ask, what do we have in mind with this question of phasing-in? The phasing-in could take the form of a restriction by month, that is, July and August may be the months to ban motorboats in certain parts of the park. The restrictions could be by lake. Certain lakes would be designated where motors would be banned. This is the thinking at the present

time. The intention is to begin the phasing-in of the ban in 1977.

The can and bottle ban was the other point you raised. At the present time, probably by the end of this week or next week we expect to have a cabinet decision on the matter of the can and bottle ban. The ban has been approved on a trial basis for Quetico, and we are waiting for the same authorization for Algonquin. It should be remembered though with respect to the can and bottle ban that we have a programme now that involves the passing out of garbage bags to people when they enter the park. There is a message on the bag. There is a message given to the person that if he takes it in bring it out, and here is the bag to do it. They are numbered and we could in fact trace it back if they left the bag in.

This has served fairly well in bringing this non-burnable material out to the edge of the park where it can be handled properly. The imposition of the can and bottle ban will be a supplement to that and will catch the irresponsible who now don't bring this material to the exterior of the park.

Mr. Ferrier: The possibility always is that they could bring their bag out, but they could leave a few cans or bottles or whatever it might be in there. With the government having taken a fairly tough stand as far as beverage containers and cans are concerned and implementing a policy there, I hope the cabinet, when they do make this decision later this week, that it is along the line that is in Quetico and as recommended here.

With respect to the logging that goes on in the park, I think it is fair to say that we have not been in favour of that and still aren't.

Hon. Mr. Bernier: Jobs?

Mr. Ferrier: No, we proposed our alternatives when the bill came in and I don't think we have changed our position on that.

Hon. Mr. Bernier: A very healthy debate, if I recall.

Mr. Ferrier: Yes. The canoeists, as I understand it, are finding that the buffer zones between the canoe trails and the camping areas and the logging activity aren't very extensive so that the evidence of logging seems to be pretty clear, and people are thinking it is anything but a wilderness experience in many respects. What is your ministry doing to try to make sure that there is a reasonable buffer zone between the people who are

after a wilderness holiday and the logging operation?

Hon. Mr. Bernier: We are fortunate in having the manager for the Algonquin Forestry Authority with us today in the person of Joe Bird. I will ask him to come forward and give you some comments as to those questions you have raised. I would just point out that the Algonquin Forestry Authority has just about had one year—I think maybe a year and a few months—under its belt. So it is obvious that many of the plans to which you refer may not have been completed in detail and would not be available at this time, but certainly it's our intention as they become completed to make them available to you.

Mr. Ferrier: Well, will he also address himself to the question of—

Hon. Mr. Bernier: Yes.

Mr. Ferrier: —the logging and the silviculture programme that you have there? He'll give us an idea—

Hon. Mr. Bernier: Yes. He'll give us a fully detailed report on this.

Mr. Ferrier: —of what plans you have in that regard?

Hon. Mr. Bernier: Yes, he will.

Mr. Bird: The first question is related to the forest management plan for Algonquin Park. Our volume agreement with the ministry provides for submission of that plan April 1, 1980. We're working actively now with the ministry developing the specifications for the forest inventory and we understand that aerial photography of Algonquin Park is scheduled for 1977.

Those are the two basic tools that we require to get on with the job and with those tools in hand we expect that field work would commence next summer—in 1977—to meet the submission deadline of April 1, 1980.

The second question involved regeneration following cutover in Algonquin Park, as I understand it?

Mr. Ferrier: Yes.

Mr. Bird: The cutting methods being practised are partial cutting with very few exceptions. Under these partial cutting prescriptions, the number of stems removed in harvest is much less than the total number of stems on the acre. In a typical hardwood stand, under the cutting prescriptions which are being enforced, we are removing between 10 and 20 stems per acre from a stand of 140 to

150 stems per acre, so that the evidence of logging related to the proportion of stems removed is very minor.

On the limited areas where artificial regeneration work is required, we have recently entered into a regeneration agreement with the minister and work is going on the initial project under that agreement at the present time. A project of site preparation is under way on about 600 acres in the Lake Traverse area, one of the few areas in the park that was clear cut. The reason for the clear cut was to remove a stand of jack pine which was infested with the jack pine bud worm. So that stand has been removed as a therapeutic process and work is going on to restore the new stand.

Your third question involved impact of logging on canoe routes, as I understand it. The prevailing regulations on logging in Algonquin Park, which are being followed to the letter, prohibit noise-producing logging activity within a mile-and-a-half of canoe routes from the Victoria Day weekend in May through the Labour Day weekend in September. The noise-producing agents of logging that I referred to are chain saws mainly, tractors and wheel skidders.

So the general regulation is one mile-and-a-half away from canoe routes except for machines which are equipped with mufflers which reduce sound emission under 80 decibels. Then the distance is narrowed to one mile. In addition, there is no commercial cutting within 400 feet of any waterways and the crossings of canoe routes by logging routes or skidding trails is highly regulated and in the year and a half that we've been involved with logging in Algonquin Park, there has been no increase in the number of canoe route crossings. We are in the process now of developing a rehabilitation programme with the parks people to look at existing crossings on a priority basis and to undertake a rehabilitation programme which would reduce the total number of canoe route crossings.

[3:45]

Mr. Ferrier: You are enforcing that 400 feet from the water's edge you mentioned, are you?

Mr. Bird: The Ministry of Natural Resources is enforcing it on the operations which we conduct.

Mr. Ferrier: In view of the time limits, I'm prepared to yield.

Mr. Vice-Chairman: Mr. Bird, would you just remain for a minute? Since we're now in

a discussion of Algonquin Forestry Authority and Mr. Bird is the manager, would the committee like to finish up on this one while Mr. Bird is here and then when we're through, he can leave?

Mr. R. S. Smith: Well we've started; we may as well finish.

Hon. Mr. Bernier: Yes, that was what I was just saying to the chairman. Since Mr. Bird is here and the discussion has begun already on the forestry authority activities, there may be some questions the members would like to ask.

Mr. Vice-Chairman: Would that be all right with the committee? Who would like to speak then to Mr. Bird?

Mr. R. S. Smith: I have a few questions. At the time of the setting up of the Algonquin Forestry Authority, of course, there was some question of what authority was given to you people. It came down to the fact that you would only be going to manage the forest itself; the recreational purposes of the park would remain with the ministry. Is that correct and is that the present status of your operation?

Mr. Bird: That's correct. We really share the forest management aspect with the Ministry of Natural Resources and we are not involved at all in the recreational aspects.

Mr. R. S. Smith: On a contract basis. Now, since you've taken that over a year ago, have you moved now where you have individual contracts with those people who are operating in the park, or are they still operating under their old licences that had been granted to them previously by the ministry?

Mr. Bird: Just to bring you up to date on that, perhaps I can best answer your question by using some statistics, if you'll forgive me. The regulated allowable cut in Algonquin Park is 151,000 cunits a year. In 1975-76, our initial year of operation, we assigned production of that total cut to the former licensees who were, in effect, contracting for us, producing wood for their own requirements, so that our role in direct logging was very minor, practically non-existent.

In the current year we are producing, through independent contractors about 50 per cent of the 151,000 cunit cut. We are, in effect, the owners of that 50 per cent of the wood produced and we dispose of it through sales agreements to the former licensees who are allocation holders. The remaining 50 per cent of this year's volume is

again being produced by some of the former licensees, basically producing wood for their own requirements. So we have moved in our second year of operation from zero to 50 per cent of the total production.

Mr. R. S. Smith: And is that going to be the limit of your direct control over production, or will the present licence holders who are producing for their own purposes and for their own uses, will they remain in that position, presumably under some kind of contract with you?

Mr. Bird: Our objective is to expand our direct participation beyond the 50 per cent where we are now. We bit off 50 per cent in the first year. I doubt that our next bite will be the remaining 50 per cent, but suffice to say we are moving in that direction.

Mr. R. S. Smith: How big a forestry staff do you in fact have outside of your administrative staff?

Mr. Bird: We have a permanent administration and management staff of 12 people, with two vacancies in our approved complement of 14.

Mr. R. S. Smith: That's your total staff.

Mr. Bird: In addition to that we have three casual staff and two part time people.

Mr. R. S. Smith: Do these people—of course they must include some professional foresters? Do they work in the field itself, in setting out the cut as the ministry previously did in some areas of Algonquin Park? Does the ministry still do that? Who, in fact, sets out what a licensee can cut on his licence in that particular year because I understand they are all operating in the same area that they operated before anyway, pretty well?

Mr. Bird: The first part of your question: We have six professional foresters on our staff and I think three technicians, so that the cut layout activity is closely supervised in the field by professional foresters. A couple of them are management people like myself. But at least four of our foresters are in the field about 75 per cent of their time and very closely involved with layout on the ground.

The second part of your question: Our relationship with the ministry, to what extent have we assumed the roles that they previously played? Not to any great extent, because the role of the ministry has been in directing and regulating the forest harvesting in accordance with The Crown Timber Act

and regulations thereunder. They continue to play that role. The role that we play probably replaces more the industrial forester than the ministry people as such. Up to now we are more closely involved with the harvesting activity itself but we are becoming involved in a regeneration project, as I mentioned earlier, and will no doubt expand our involvement in that direction.

Mr. R. S. Smith: I find this a little difficult to follow. I don't know that I recall the original Act and the discussions that took place around it. Do you feel that what we have done in effect has taken over from private industry the management of the forests? You are now moving in the direction of reforestation which has been a responsibility of Lands and Forests up to this point in time. In effect, I don't believe there has been any change in the operations of the individual companies concerned other than the fact that I suppose you are doing the laying out for them as to where they are going to cut. I don't know that there has been any change in the ministry's responsibility there either.

In fact, it appears what we have done is put another layer of administration between there. I don't know if this is going to save the forest or not. I guess we are going to have to wait and see, or whether it is going to rationalize the use, or whether you people can produce a better silviculture programme than the ministry itself. That is really the question.

Hon. Mr. Bernier: Time will tell.

Mr. R. S. Smith: Yes, time will tell. But if it tells the wrong way, that's goodbye Charlie for that hardwood cut; that is the last one in Ontario, the last major one anyway.

Hon. Mr. Bernier: One has to have confidence in the people who are doing it. I think Mr. Bird here is—

Mr. R. S. Smith: I am not indicating non-confidence in them. I am just saying that these are major questions which have to be answered. If, in fact, it doesn't work out, and the control over those who are cutting is not as aggressive—I was never one to criticize the control of the ministry of the park up to the time when you people took over. If there was one area in the province where the ministry was in control of cutting, it was in Algonquin Park, even if it wasn't anywhere else. They did have a good programme there and I think it was well managed.

Hon. Mr. Bernier: I'll remember those remarks.

Mr. R. S. Smith: I have said them before.

Mr. Yakabuski: They are on the record.

Hon. Mr. Bernier: Are they on the record?

Mr. R. S. Smith: I have said them before and you know very well I have said them before, especially when I compare what is outside the park, which is just something else again. But we won't get into that yet.

Mr. Yakabuski: If you look at some of that private land just outside the park, you would want to shudder and shake.

Mr. R. S. Smith: Take a look at my area which is all public lands and which is a mess. You couldn't find a tree to cut for 50 miles if you looked, and that is as a result of the silviculture programme of this government. If we had a good programme, we had it there. Then we moved to a Crown agency which I suppose you people are in effect. I don't know if we can look for any better results or if we should be looking for a cutback in the number of cunits per year that are taken out of that park and the development of other secondary industry to take its place. I believe that in the long run that is going to have to be done, regardless of the management unit that is there, whether it be the ministry itself or your group which has been appointed by the ministry.

I have my reservations as to whether it meant really one whit of difference which way it was done. But it is in place and I suppose we have to live with it now. Is the actual cut in the park being reduced on any basis, on a year-to-year basis or at all, or is it being increased?

Mr. Bird: I mentioned earlier the regulated annual allowable cut of 151,000 cunits a year. Production last year was considerably less than that. It was in the order of 140,000 cunits. The reason for that was economic factors, the market situation, which still prevails this year. We are forecasting now 139,000 cunits of production for this year. But in both years the reason is a market situation, particularly in hardwood lumber which is very depressed so that the demand isn't there.

As for any other form of a cutback rather than economic, biological, for instance, we won't know until our management plan is completed in 1980 what the biological sustainable annual cut is. It may be more or less than 151,000 cunits that we are operating

at now. That level of 151,000 cunits that we are at now is conceded by knowledgeable foresters to be considerably less than the growth potential, but we will know for sure when the management plan is out in 1980.

Mr. R. S. Smith: That is the same allowable cut that was being used by the Ministry of Natural Resources?

Mr. Bird: Not quite. Prior to our involvement, the industries were operating in the park under licences from the ministry and all of those licences were cancelled and we were issued one licence. Some of those previous licences operated on a regulated allowable cut and some of them were short-term licences, so there was not an identifiable annual allowable cut as such.

Mr. R. S. Smith: It varied actually.

Mr. Bird: Yes. I might add that prior to our involvement there were many years in which the annual cut was considerably more than 150,000 cunits when the hardwood lumber market was hot.

Mr. R. S. Smith: It was good.

Mr. Bird: Yes. It will not go over that now regardless of market conditions.

[4:00]

Mr. R. S. Smith: After one year of operation, do you find that there has been any conflict between the different users of the park including yourself, as representing the harvesting of the park for wood purposes, the recreational use of the park and, of course, that group of people who would like to see the park remain as a complete sanctuary of untouched area?

Mr. Bird: Those opportunities for compromise—conflicts, as you described them—are still there. It's my personal opinion that those conflicts are fewer in number and less serious than they were. I think the simple fact of one agency being responsible for all of the timber harvesting removes a lot of variables that were there previously. Not to be critical of the way people were doing it previously, but the simple fact of having one administration and a uniform practice across the board I think has simplified the situation somewhat.

Mr. R. S. Smith: You haven't found then that there's been an increase, but rather that there's likely been a decrease in the conflicts that arise.

Mr. Bird: In my personal opinion it decreased, but I think the parks people within the ministry who have to feel that sort of thing are better able to speak on that than I am.

Mr. R. S. Smith: What kind of co-operative setup do you have with the parks people for the policing of the park and that type of thing? Up until a couple of years ago there was some real question as to the method of policing of the park. Of course, those people who were involved with the ministry, whether they were recreational people or whether they were involved with the timber industry, both had the same, perhaps not only responsibilities but the same abilities to assist in the policing of the park. I can remember that the Algonquin committee recommended that there be established within the park a larger unit of the OPP, plus some extra policing during the recreational periods. If in fact there is a reduction in the number of the people within the park who are working for Natural Resources and being replaced somewhat by your people, then of course, has there been a change in the policing within the park?

Whether that is a question for you or Natural Resources, that is where we're going to get into the—

Mr. Bird: I think it's for Natural Resources, sir. The only policing that we're involved in is the enforcement of Crown Timber Act regulations by the ministry timber staff, and I don't think that's what you're looking for, is it?

Mr. R. S. Smith: No, no.

Mr. Bird: It's park people, then.

Mr. R. S. Smith: Okay. That's fine for now.

Mr. Vice-Chairman: Mr. Haggerty.

Mr. Haggerty: Thank you, Mr. Chairman. I can follow along the comments of my colleague, Mr. Smith. The Federation of Ontario Naturalists have presented a brief to the minister concerning the matter of policing the Algonquin Park and other parks in Ontario. They have made some recommendations, as to park users. There's discussion that park users are not advised of park regulations, either by signs or handouts, in many of the parks. What decision has the minister made on this particular recommendation? Are you going to provide ample information to park users to say that they can't go in and cut down certain young trees or destroy wild flowers maybe and that?

Hon. Mr. Bernier: I don't think that's a problem, is it? It's our recreational people that look after that aspect.

Mr. Bird: I think that type of protection is assured under the zoning system in the master plan. Protection of ecosystem—is that the sort of thing that you're talking about?

Mr. Haggerty: That's right. It goes on further. Some of the suggestions are that park employees and conservation officers should take action when violations occur. There must be quite a bit of destruction in ecology within the park itself, in any of the parks in Ontario. It says warnings and explanations should be used for minor infractions, especially by children.

Dr. Reynolds: Mr. Chairman, with respect, I think this relates more to park management, the recreation areas, than it does to the Algonquin Forestry Authority.

Mr. Haggerty: I imagine quite a bit of recreation goes on in the Algonquin Park too; is there not?

Dr. Reynolds: But it is not under the authority which is involved in the harvesting of timber, under this particular vote.

Mr. Haggerty: When my colleague mentioned about policing, I thought this was a matter that I could bring up.

Hon. Mr. Bernier: I wonder if there are any more questions that we could direct to Mr. Bird with regard to the Algonquin Forestry Authority, the commission that harvests wood.

Mr. Stokes: I would like to speak to forestry in Algonquin.

Hon. Mr. Bernier: That's the issue we're on now.

Mr. Stokes: I would like to ask this gentleman how he sees the Algonquin Forestry Authority operating, not so much in the short term but in the long term? As you know, when the authority was set up we had the Pierpoint report which made certain recommendations and certain assumptions that we were asked to accept. It seemed to me during the course of those discussions that it was as a result of improper management of the acreage on the periphery of the park that it was found that you had to go in and manage the forestry resources in the park. There was some effort made, I suppose with some degree of validity, to suggest that the way that the park has been maintained to the degree that it has at the present time and the inventory

of trees which go to make up the attractiveness of the park are a result of the fact that it has been harvested for about a hundred years.

As a result of discussions that we had and an exchange that we had at that time, there was an agreement made that every effort was going to be put forward to see that the values that might be obtainable outside of the park would be by the use of good forest management techniques.

I realize that that is a much different forest from the boreal forest. It's one that you people refer to and the foresters themselves refer to as the Great Lakes-St. Lawrence forest as opposed to the boreal forest. I understand there's a good deal of research going on into the regeneration and the propagation, particularly of the hardwood species, which seems to be the most desirable species. I'm told 40 per cent of all of the woods that are used in the furniture industry in southern Ontario come from that park.

As it's almost two years, I think, since that authority was set up, what kind of initiatives are you taking on the periphery of the park so that it may be possible to phase out cutting operations in the park, save for therapeutic logging and to keep down the threat of budworm infestation or wild fires or things like that? How far are we away from the day that it may be possible to get equivalent values on the periphery of the park and leave the part unviolated, save for the kinds of activities that you would like to continue to be engaged in just to protect the values that are there now?

Mr. Bird: Your first question was how do we see our long-term involvement. I think one of the most serious problems relating to logging in Algonquin Park is distribution of the product. The former licencees operated a variety of different types of mills. The Algonquin forest is ideally suited to producing a variety of products. The company that was interested only in hardwood lumber previously, conducting its own operations in a forest stand which could yield a variety of products, was not always recovering that variety of products, was not utilizing the forest, the trees that were harvested, to the best advantage. And it is in that role that I see the expanding activity of the authority with one agency conducting the logging operations and supplying 19 user mills.

I think single operation is better equipped to produce the variety of products required among those 19 user mills than any of the others individually. So I see us expanding in that role of multi-product logging and owner-

ship of the product to be distributed according to the needs.

Your questions involving the possibility outside and adjacent to Algonquin Park, and I think ultimately replacing Algonquin Park commercial production with wood from outside the park: You did mention that logging has been carried out in Algonquin Park since prior to its establishment in 1893, and you alluded to the fact that forest conditions inside the park are better than outside. I think that is a credit to the way in which logging has been conducted in Algonquin Park for over 150 years.

Mr. Stokes: But surely it is condemnation of the way that you have neglected the areas on the periphery? It is essentially the same forest.

Mr. Bird: Okay, by inference. What has happened outside the park I am not qualified to speak on. I have read the reports that went ultimately into the decisions which led to our establishment. I think the conclusions of those reports were that the wood to sustain industries dependent on Algonquin Park is not available from forest land outside Algonquin Park. Any initiatives we have taken to develop that supply outside the park, I am afraid to say, are nil because it is beyond our jurisdiction. We are in place to conduct the forest harvesting and forest management activities inside Algonquin Park.

Mr. Stokes: All right, the second part of my question was probably unfair to ask since you deal specifically with the values inside the park. Let me ask you then: What techniques are you using, both harvesting and silvicultural techniques, that lead you to believe that your method of harvesting, your method of regeneration and other treatments that you will engage in at the time of harvesting, has improved since all harvesting has been under the authority as opposed to several licences?

Mr. Bird: Those techniques obviously have been improved significantly in the year-and-a-half that we have been in business. But you did ask earlier about regeneration of hardwoods and any research that may have been done on that subject. The ministry research station at Swan Lake has worked extensively on the question of hardwood regeneration in Algonquin Park applicable probably to the entire Great Lakes-St. Lawrence region that you mentioned. It is through those research efforts that the current cutting prescriptions enforced by the

timber management people in the ministry have been developed.

[4:15]

I mentioned earlier that the average harvest from the average hardwood stand in Algonquin Park is between 10 to 20 trees per acre out of a stand of something like 150 trees per acre. That is the sort of technique that we developed through this research programme at Swan Lake: The determination of the portion which can safely be removed which will assure restocking of the stand by natural means and will, of course, minimize the environmental impact of the harvest cut.

Mr. Stokes: So then we can assume, and we can assure all people who are worried about it, that as a result of these new techniques that you are using it will be possible to harvest the same volume of a variety of species and, at the same time, minimize the conflicts that naturally arise when you get too close to roads, when you have to open up so many more areas where there are obvious conflicts between other users when you use the multiple-use concept. Is it fair to say as time goes on that those conflicts will be minimized as a result of the use of these newer techniques?

Mr. Bird: I would answer a qualified yes. My earlier explanation of regeneration was related to hardwood and the hardwood forest represents about 70 per cent of Algonquin Park, the remaining 30 per cent is basically pine forest. That is a different type of forest management technique and the evidence is that it is sound also.

On your question, can we continue cutting the volumes and species distribution into the future that we are cutting now, I have to qualify the yes because the species distribution can vary. The forest development of Algonquin Park has been historically by logging and by fire. Although fire protection has improved vastly in recent years, we are still living with the effects of past forest fires where in given years great acreages were burned and in other years small acreages were burned, so that you have a varying age class distribution and you can have swings in species composition and volume resulting from that sort of thing. But I would say they would be minimized through the selective cutting techniques that are being applied.

Mr. Stokes: Final question, Mr. Chairman: Do you have any horticulturalists on your staff, let alone in the ministry?

Mr. Bird: We don't have on our staff, sir.

Mr. Stokes: The reason why I ask is that at the time that we were debating the setting up of the Algonquin Forestry Authority I spoke at some length about what was being done in other jurisdictions. I referred specifically to what was being done in New Brunswick where the person whose track record with regard to the wise use and husbanding of resources left a lot to be desired has seen the error of his ways. Even though I think he is no longer a resident of Canada he still has a very profound interest in the ability of certain tracts of land down there to grow timber. In charge of his operation is not a forester. Most foresters I talk to say they love trees but I'm wondering whether or not they have been able to convince the people who make the ultimate decision as to the wise use and wise harvesting of trees.

I suppose this should be directed more toward the minister than the gentleman who is answering the questions directly, but I am told there is a vast difference between the way that a forester looks at a tree and the way that a horticulturalist looks at a tree. It's almost like a friend I know who almost gets up in the middle of the night to look at his roses to make sure that certain species of wildlife haven't violated them, or the frost hasn't got to them, or something like that. But it seems to me that there would be some value in at least trying to use the service of a horticulturalist who's more interested in growing trees than in the economic benefits that might accrue from them. I'm told that your people within the nursery branch of the ministry are being pushed constantly by the people who need X millions of tons of tubeling seedlings and that sort of thing. They sort of lose sight of the fact that their job is to grow a good hardy tree and make sure that it has the best possible chance of survival. Would you consider taking on at least two people to start with that are primarily and singularly concerned with the growing of a good strong tree, having regard for wherever you plan to grow it?

Hon. Mr. Bernier: You're going to alienate all the foresters in my ministry talking like that. That isn't my responsibility.

Mr. Stokes: As a matter of fact, I have been talking to some of your foresters and they're among the first ones to admit that the techniques that we're using leave a lot to be desired with regard to growing the best species and the species that are particularly suited to the literally thousands of growing chances that we have across the province. I

just think it would be worthwhile to take on a couple of horticulturalists, just to make an assessment of the difference between the results of a horticulturalist as opposed to the results of a forester in growing trees.

Dr. Reynolds: Mr. Stokes, perhaps it's fair to say that more of that sort of thing goes on than is generally recognized. A great deal of the research effort is directed to identifying trees of superior form, of matching those trees against site, of genetics of tree breeding and selection and things of that nature. The programme, for example, that deals with the selection and propagation of faster growing more suitable types of poplars is particularly of that nature.

So while they're not horticulturalists, they're more in the nature of a forester/geneticist working toward that end.

Mr. Stokes: All I'm asking is, will you hire a couple of horticulturalists?

Hon. Mr. Bernier: I'll give it some consideration. You want somebody to shake hands with those trees.

Mr. R. S. Smith: I have just a couple more short questions, sir, that I'd like to ask. Last year, there was allocated in this programme \$6 million for the expenditures of the authority. This year \$1.5 million is allotted. I realize there are start-up costs, but there seems to be a fair discrepancy in the amount. I wonder how much of that \$6 million was spent?

Hon. Mr. Bernier: Not that much.

Mr. Bird: The deficit from 1975-76 was \$500,000.

Mr. Haggerty: You spent \$6.5 million?

Mr. R. S. Smith: You had a budget of \$6 million and you had a deficit of \$500,000? And you have a budget this year of \$1.5 million?

Mr. Bird: The \$6 million budget from last year was the estimated cash requirements to produce and to deliver 150,000 cunits of logs. The authority did not assume the production cost of that wood because of the late startup. We started only in April and that's the start of the logging season. So we assigned the cutting of the logs to the former licencees who did so at their own expense, so our cash requirements were obviously minimized. For the year ended March 31, 1976 we had income of \$1,071,557 and expenses—I'll round that off for you. We had

income of \$1.1 million. We had expenses of \$1,193,000. We had administrative expenses of \$333,000. So we spent \$1½ million of which revenue offset \$1 million, leaving a deficit of \$500,000. So our cash flow, as related to the \$6 million estimate, was \$1.5 million last year.

Mr. R. S. Smith: But in fact there was only half a million of that six million used. Is that right?

Hon. Mr. Bernier: No, \$1.5 million.

Mr. Bird: No, \$1.5 million was used; \$1 million was paid back to the treasury, leaving a net deficit of half a million.

Mr. R. S. Smith: So that the net deficit was half a million dollars. Okay. It cost half a million dollars to operate, instead of \$6 million.

Hon. Mr. Bernier: Right.

Mr. R. S. Smith: The other question I have, and it hinges on that as well—you said you people were moving to take over the silvicultural activities. Obviously you are taking those over from the ministry. You have indicated that in the hardwood forest, at least I garnered this from your remarks, I may be wrong, you expected that natural regeneration would look after the hardwood sections. I suppose the other sections of the forest that are being used in Algonquin Park will be regenerated on an unnatural basis, and that there will be a cost. Is that cost being charged back to the ministry?

Mr. Bird: Yes, the pine area of the park, the 30 per cent. I think, is what concerns you. The cutting prescriptions being applied are intended to stimulate natural regeneration. Again it is a partial cut, so that after cutting trees are left for shelter and for seed. In some isolated cases nature needs some help through ground treatment underneath those seed trees to create a seed bed and to stimulate new growth and in some areas planting is needed. The 600-acre project I mentioned, which is going on right now, is done on a contract basis by us for the Crown. We are reimbursed by the Crown for our cost.

Mr. R. S. Smith: So in the pine areas there is no longer going to be any clear cutting used as there has been in the past, and likely there will be very little strip cutting used?

Mr. Bird: The clear cutting is limited to therapeutic cuts for insect infested stands, either jack pine budworm or spruce budworm, on very limited areas. I think the

alternate strip cutting that you mentioned, strip shelterwood cutting which has been conducted in the past, the results of that type of cut in producing a new stand are being assessed very closely and there is a trend away from that management system to a uniform shelterwood where you have in effect no clear cutting. You have a uniform distribution of shelter and seed trees over the acre.

Mr. R. S. Smith: But as far as the hardwood stand itself is concerned, neither one of those types of cut will be used in the future?

Mr. Bird: No. Artificial treatment for regeneration in hardwood stands is almost nonexistent.

Mr. R. S. Smith: The other short question I want to ask you is who collects the stumpage, you or the government?

Mr. Bird: The government.

[4:30]

Mr. Reed: I would like to pursue this question of the regeneration of the hardwoods a little bit. I know that in Algonquin Park you have developed some systems and I expect that your natural regeneration and the kind of cutting practices you have now are considered perhaps the most satisfactory. Correct me if I am wrong. I was wondering about the other techniques, the business of nursing the hard maples and so on. Do you do extensive research in that area and what is the comparative success of both kinds of programmes?

Mr. Bird: Is your question about nursery-grown hard maple?

Mr. Reed: Yes, I would like to know if you are doing it in Algonquin. In other words, you were talking about the places where plantings had to occur. How do you get that stock? Do you nurse it yourselves, or do you bring it in?

Mr. Bird: The planting I refer to is almost exclusively pine. There has been very little planting of the hardwoods. There were efforts at yellow birch earlier, but very little on maple. The research conducted at Swan Lake, which has developed the cutting prescriptions being applied, is oriented to developing a satisfactory stand of adequate stocking.

In maple really that occurs naturally. Maple is a prolific seeder every year. The climate in Algonquin is ideal—fairly high precipitation, fairly high temperatures, and

a long growing season. The logging system being employed, which is skidding of logs by a wheel skidder, creates a disturbance of the soil which improves seed bed conditions. What is going on is that the conditions are ideal for reproduction of maple, and it is happening in quantity.

Mr. Reed: With the natural system?

Mr. Bird: Yes.

Mr. Reed: But with reference to the nursery system, which I suspect you might be called upon to provide from time to time, are you researching that or have you any success with that kind of thing? We are told here in southern Ontario that hard maples are difficult trees to grow and propagate in a nursery and, as a result, your ministry does not make hard maples readily available for reforestation. I am wondering what your opinion of that type of propagation is and, if you are having some success, are you sharing it with the rest of the province outside of Algonquin Park?

Mr. Bird: I think it is true that hard maple is difficult to grow in a nursery. Fortunately, the stands where hard maple grows seldom need any help from nursery-grown stock. As far as research is concerned, we in the Algonquin Forestry Authority are not involved in research of nursery-grown stock. That is in the ministry.

Mr. G. I. Miller: Who gets the opportunity of bidding on the logs that come out of the park? Is that put up for bid or how is that dealt with?

Hon. Mr. Bernier: Mr. Bird will explain that.

Mr. Bird: Our principal mandate is to supply the mills who were previously supplied by licences held by the companies in Algonquin Park. Our prime obligation is to those 19 mills which have been given allocated volumes, annual allocations, by the ministry, and those are the allocations which we endeavour to supply. We cannot go outside that group of 19 mills for any timber which might be surplus until we have tendered to all of the 19.

We have done so with very minor volumes this year.

Mr. G. I. Miller: The Kent sawmill at Birch Falls, is that one of the 19?

Mr. Bird: It is one of the 19 having an allocation, yes. It is not operating, as you know.

Mr. G. I. Miller: I realize that but I wondered if they have the opportunity of bidding on the lot.

Mr. Bird: Yes, they do.

Mr. Vice-Chairman: Thank you, Mr. Bird. You can now go back to Algonquin Park.

Mr. McKessock: I want to direct my comments and questions toward acquisition of land and land placed on acquisition maps by Natural Resources. In our area, it appears Natural Resources would like to buy most of Grey riding, or a lot of it.

Hon. Mr. Bernier: That's what we did.

Mr. McKessock: Yes, you did buy a lot of it and what's remaining you would like to buy at some time in the future. But as a farmer and a businessman, I've had ambitions of buying a lot of land at one time and it turned out that my neighbour wouldn't hold it for me unless I had the money. When it comes to the government, they seem to have a way of kind of holding it until they get the money and this is one of the problems that we disagree with.

I'd like to direct my remarks to a specific case and I'd first like to read to you, to familiarize you with it, a letter written to the minister on Sept. 27, 1976. This was from Beaver Valley Planning Board, Clarksburg.

Hon. Mr. Bernier: What date was that?

Mr. McKessock: September 27. A reply hasn't been received yet.

Hon. Mr. Bernier: I likely haven't received the letter yet.

Mr. McKessock: "Dear Mr. Bernier: Re: Acquisition lands in the Beaver Valley Planning Area by the Minister of Natural Resources, particularly north half of lot 10 and south half of lot 11, concession 3, township of Euphrasia, Grey county. Owner: Mr. Allan Page.

"Mr. Page appeared before the Beaver Valley Planning Board at its regular meeting on September 22, 1976, for discussion on the above property which has been owned by he and his family for a number of years. The proposal, which was first brought to the planning board in 1972 envisaged a family-type ski facility on the 187-acre property as a first stage with later development of chalet lots to complement the ski club for a total skiing concept.

"However, with the appointment of the Niagara Escarpment Commission and the re-

sulting development controls, these plans were effectively frozen since the property is within the Niagara Escarpment planning area. In the face of these controls and for personal reasons, Mr. Page now feels that he would like to dispose of the property but once again he has met with another obstacle.

"It appears that this parcel is slated for acquisition by the Minister of Natural Resources, but the ministry is without the necessary funds to complete the purchase which leaves Mr. Page in an awkward position: only one buyer with no funds available.

"The Beaver Valley Planning Board believes that the ministry is taking unfair advantage of property owners such as Mr. Page by locking up their property on future acquisition maps and thus preventing sales to other buyers. The board would like to see these properties either purchased or released for sale or development. In support of Mr. Page, the following resolution was approved by the Beaver Valley Planning Board on September 22, 1976: 'Moved by Mr. McNichol, seconded by Mr. Adshade that the Department of Natural Resources be requested to either purchase or withdraw the acquisition mapping from the Beaver Valley Planning Area for the north half of lot 10 and the south half of lot 11, concession 3 in the Township of Euphrasia.'

"The planning board respectfully submits these comments for your consideration."

This letter was signed by J. Edward Kenton, secretary of the Beaver Valley Planning Board, and a copy was sent to me also.

Hon. Mr. Bernier: Mr. Chairman, if memory serves, I believe that I did direct a reply to that letter very recently.

Mr. McKessock: I was talking to Mr. Kentner this morning and he says he has not received a reply yet.

Hon. Mr. Bernier: I think it was in the last day or two. Maybe Mr. Foster could elaborate in detail on the aspects of it.

I will just point out that since the budget constraints and budget cutbacks, the problem of land acquisition and our desire to obtain and purchase certain lands have had to be re-examined to a great extent. In the case of some of the people to whom we had indicated our desire to purchase that land, we have now had to reverse ourselves and indicate to them that because of cutbacks and because of constraints, while we would like to have their land for the benefit of the people of the province, we just don't have the funds at this point in time and we have

allowed them to go their own course. Maybe Mr. Foster could elaborate just a little on it for you.

Mr. McKessock: If I could just give you a little further on this, I would like to pass this up for the minister to have a look at. It shows the area that I am talking about. I believe Euphrasia township also sent in a resolution pertaining to this same piece of property. This property has been surveyed for 54 lots on a surveyor's plan and contains 187 acres. Mr. Page has spent \$34,000 in building up roads and ponds, plus the time he has spent on this, and the taxes and upkeep per year now cost him \$2,000 a year. When he first purchased this property, the taxes cost him \$220. At that time he received half a rebate of \$110 but that is no longer available, so they have gone from \$110 to \$1,261 a year with other upkeep costs, costing him \$2,000 a year. He has also spent money on building ponds, tree planting and cleaning up the dead elms and built three miles of roads and ski trails, culverts.

In 1973, he had deposits from 30 people to purchase 30 lots on which they intended to build chalets. Then the Niagara Escarpment controls came in and this put an end to that and he had to return the \$3,000 to these 30 people. I would just like to quote a little bit from a letter that I received from Mr. Page. He says: "I am completely frustrated after seven years of dealing with various government departments and continued high costs. I would point out that I am 73 years old and have written and contacted various government departments in Toronto, London, Owen Sound, Clarksburg, Thornbury and Georgetown."

I would like to mention here that Mr. Page has been very systematic and business-like about his property here. He has given me a list of 27 different meetings and contacts all listed, starting back in 1972 right through to 1976. I wanted to point out some of the problems here and to ask you the question do you intend to buy this land now or, if not, when?

Mr. Foster: As indicated, we have had to revise our land acquisition plans in the Niagara Escarpment because of funding constraints. Some months ago, Mr. Page was advised that we would be unable to acquire his property for this reason. Just recently the minister has written to Mr. Kenton in reply indicating that we will be revising our land acquisition maps and excluding Mr. Page's area from any future acquisition plan. We have indicated to the Beaver Valley Planning

Board and also the Niagara Escarpment Commission that we would support Mr. Page's development of the ski complex. It's the sort of thing we would encourage and find compatible with the recreational use of Beaver Valley.

[4:45]

Mr. McKessock: Does this mean that this land is going to be taken off the acquisition maps?

Mr. Foster: Yes.

Mr. Vice-Chairman: Is that it? Do you want to go up to the House now?

Hon. Mr. Bernier: I guess we should.

Mr. Vice-Chairman: We have the following speakers; Mr. Lane, Mr. Spence, Mr. Bain, Mr. Pat Reid, Mr. Haggerty, Mr. Julian Reed and Mr. Ferrier. If you will be down in that order after the vote.

Mr. Bain: They are not going to vote until after 5 p.m.

Mr. Vice-Chairman: Not until 5 p.m.?

Mr. Bain: When I was coming I inquired and they said they weren't going to vote until 5:10 p.m.

Mr. Vice-Chairman: All right, let's carry on then; Mr. Lane.

Mr. Lane: Thank you. Yesterday we heard the minister talking about the fact that the Crown owns a great deal of recreational land in the province and shouldn't be too concerned about acquiring any more until we have a look at developing what we have. I have to agree with that concept in total. But on Manitoulin Island which is probably one of the best recreation areas in Ontario, the Crown doesn't own any land. We have three very vital blocks of land there known as Michael Bay, Carter Bay and Ontario Paper property. Now Carter Bay sand dunes are very fragile, and if they are not protected either by being part of a national park under Parks Canada, or being part of a provincial park with some restrictions for preservation of this fragile beauty it will be gone for all future generations. Since we have more land in the province than we need, I think it is imperative that we give more consideration to getting some land in Manitoulin Island before it is too late.

The Ontario Paper property is 80,000 acres. It is the last large piece of property in the district. It is very much in demand and I can only say it is a wonder it hasn't disappeared

before now. I was coming down here when I was mayor of Gore Bay, and Mr. Brunelle was Minister of Land and Forests, with cap in hand asking that this property be purchased. At various times throughout those five years, it seemed as if we were about to purchase it. Since becoming a member I have been continually after this situation, trying to keep on top of it and keep it active.

Two years ago Mr. Herridge made some statements to the Globe and Mail and the Premier answered some questions in the House indicating that we were purchasing it. Two years later we still haven't done so. I know what has been the hold-up. I know now that the hold-up has been the fact that Ontario Paper people wouldn't sell this property until we could satisfy them that we could supply sufficient wood to keep them in operation in their present location.

Mr. Haggerty: Almost like blackmail.

Mr. Lane: I think this is good business on their part. Certainly if I were them and owned that property I would do exactly the same thing. However, now we have pretty well worked out an agreement with them and I know the minister is very aware of this as are Mr. Herridge and other people in the ministry. It is active at this point in time.

Of course, I know the old story is that we don't have any money for land acquisition. But this land can be purchased by other methods, either by trading or by time payments or what have you. I am saying that it is imperative that we get this land so that we will have recreation areas in the future. Because on Manitoulin, being all privately owned, there are more "no trespass" signs appearing every year. Very shortly we are going to have no place for people to go with their snow machines and hiking and horseback riding and what have you. I know that Parks Canada are interested to some degree in purchasing the whole thing—

Mr. Bain: The whole island?

Mr. Lane: —which would lock in the whole west end of Manitoulin Island. I guess it would be most unfortunate because within that confinement of Parks Canada we wouldn't do any development at all.

We have 60 miles of Lake Huron frontage there that could certainly contain a lot of cottage sites. We have some of the best deer hunting areas in the province there but because we are talking about Crown land, if it is a bad winter we have no way of cutting cedar in the spring to feed these deer and we have heavy losses because of that.

Certainly we could improve our deer management if we had more acreage there.

We could produce a lot of timber under good wood-lot management. We could improve the fishing in those inland lakes out there. And Manitoulin is a beef producing area and we certainly could provide some community pastures on those old abandoned farms. But really what we are talking about here today is recreation and a large portion of that 80,000 acres, as I see it, should be set aside for recreation development where the people of this province and other places can come 100 years from now and not have to see a "no trespass" sign and have to move on and not be able to enjoy that type of opportunity.

So it is quite possible we have more lands than we can develop. I think it's imperative we keep some fire under this project and make sure that one of the greatest recreation areas in the province does have some public lands that people can look forward to using in future generations. I am not saying that in any way to find fault with the ministry. As I say, having been the member now for five years, the hold-up was with the Ontario Paper Company and they have good owners. They have allowed a certain amount of hunting and they have been fine people to deal with.

But the land basically has been dormant. The economy has suffered greatly from it, and the whole thing is vital to Manitoulin's economy and to future recreation in that area. I just want to get that on the record, Mr. Minister. I think we really do have to keep working at resolving that problem that we have been looking at for the last 10 years and actually do not have it done at this time.

Hon. Mr. Bernier: I appreciate the member's concern and his interest, and I share his views. We too would like the land held in public trust for public use; 80,000 acres of prime recreation land on Manitoulin Island has a very high price tag on it of which the member, I am sure, is very much aware. We have had numerous discussions with the Ontario Paper Company, and as he correctly points out they were mostly interested in forest production land, or some exchange, where they could be assured of a sufficient wood supply for operations in Thorold. I think we have that straightened out. I think there is daylight from their point of view that they have these assurance now.

Mr. Haggerty: Do they do any reforestation in that—

Hon. Mr. Bernier: Oh yes, they have. Originally I think it was a poplar operation—the growth of poplars—that they were trying to develop and it didn't really pan out as they hoped.

Mr. Lane: Not as well as it might have. There is some timber there but not large enough for harvesting now.

Hon. Mr. Bernier: I don't think they're really interested in holding that land for recreational development. I think they would entertain a sale. They're very interested that the province of Ontario play a part, there's no question about that. If we had the funds, I think we would move in that direction tomorrow. But we just don't have those funds.

In connection with the national park, it has been the policy up to now for the national park people to develop the park if the land is provided to them free from all encumbrances. I really don't see the national park people going out and buying that land in the private sector—a piece of land that size—although their policies could change. There's no question about that.

Mr. Lane: I am sure you're not against the national park. I think that Carter Bay and Michael Bay and part of the Ontario Paper property could well make a very good national park that our visitors to the area could see wildlife and nature in its natural state. I think this is desirable. As a matter of fact, I was projecting at one time if we did purchase all this property, we would have a game preserve where hunting wouldn't be allowed. But hunting is a great sport, your people tell us and I have every right to believe them, that we are carrying all the deer we can carry on the west end of Manitoulin now. Certainly if we owned this property we could harvest a lot more deer and still not cut down our herds. I think this is rather important.

Hon. Mr. Bernier: We made our interest known to the Ontario Paper Company. If memory serves me correctly, I do believe we have a verbal understanding that if somebody should come to them anxious to purchase it they would come back to us and give us first right of refusal. We have that, and the discussions, I can assure you, will be ongoing and we will keep our options open.

Mr. Lane: I appreciate that answer and I know your people are working on it. I just felt that I had to put it on the record because it is imperative that something happens before too many months have gone by.

Hon. Mr. Bernier: I realize it means very much to you.

Mr. Spence: I would like to ask a few questions in regard to Rondeau Provincial Park. It has always been a subject of mine and it is a subject that is discussed with me on many occasions.

About two years ago, you set up an advisory committee which brought in a report, I think before this session began. At the beginning of the session I asked a question in regard to how many of those recommendations you had accepted from this advisory committee in regard to the operation of Rondeau Park. You indicated to me that you accepted a large portion, maybe 70 per cent of the recommendations of this advisory committee. You also said that there were some recommendations you didn't turn down but which you had to give further study. I wondered what proportion of those you didn't accept that you have now accepted, or have you made a decision on those recommendations that you had to have more time to consider?

Hon. Mr. Bernier: Mr. Eckel or Mr. Vrancart, do you have the updating on that aspect relating to Rondeau?

Mr. Vrancart: There is available a statement from the minister which addresses the individual recommendations in the advisory committee's report which we could make available to you.

Mr. Spence: Fine. When will these recommendations be put into force in Rondeau Provincial Park or are they in force at the present time?

Hon. Mr. Bernier: What is our timing for the implementation?

Mr. Vrancart: The tenure of the advisory committee has just been extended to March 31, 1977. At that time, all of the recommendations of the advisory committee will be incorporated into a master plan which will subsequently be forwarded to the minister for his approval. We would expect that probably within six months, say by the end of 1977, the master plan would be approved by the ministry.

Mr. Spence: You call these recommendations of this advisory committee the master plan for Rondeau Provincial Park?

Mr. Vrancart: The recommendations of the advisory committee are provided to the consultant who is preparing the master plan. He takes those into consideration after hav-

ing heard the comments of the minister on the recommendations.

Mr. Spence: I see. You stated to me in the past that it was the policy of this government to remove the cottages from Rondeau Provincial Park. Are they buying up these cottages still? Have they disposed of them or what are they doing with them?

Hon. Mr. Bernier: The policy has not changed, Mr. Spence. We are still picking up properties as they become available. We are not expropriating and we are not going on any massive purchase campaign. Periodically there are homes and cottages that come to us and we do pick them up. I don't have the exact numbers before me but maybe somebody here on staff could give us a rundown on the numbers we have purchased and how many we have purchased since last year.

Mr. Eckel: Perhaps we could defer the reply to that and get accurate information. We are prepared to provide that information to you, Mr. Spence.

Hon. Mr. Bernier: Will you send it to Mr. Spence directly?

Mr. Eckel: Yes.

The committee recessed for a vote in the House.

On resumption:

Mr. Vice-Chairman: We have enough for a quorum. Mr. Spence was asking a question.

Mr. Spence: They partly answered my question, didn't they?

Hon. Mr. Bernier: Yes, they did.

Dr. Reynolds: Excuse me, Mr. Vrancart has the specific data if you'd like to have them in the record, or would you just be satisfied if we turned them over to you?

Mr. Spence: I would appreciate them. He can turn them over to me.

Dr. Reynolds: I will offer you these too. They are the policy recommendations and the minister's statement.

Mr. Spence: There's another question I'd like to ask you. We were negotiating with you, the village of Erieau and the council to buy that property that was owned by the Chesapeake and Ohio Railway in the village of Erieau. Of course, when the restraint programme came on—

Mr. Haggerty: That was before that.

Mr. Spence: Was it?

Mr. Haggerty: You brought it to their attention during the last four or five years.

Mr. Spence: I know. Last year there was a gentleman in London, by the name of Drake, who was interested in this property, and some writeups had taken place in the newspapers. I wonder has there been any change or do you know what took place in regard to this property? Nobody seems to be able to find out. I wondered if you have anything to report on this.

Hon. Mr. Bernier: If I may just comment briefly, the member is quite right, we were extremely interested in that particular property. I think it would have given us an ideal access and a park development on Lake Erie. There's no question about that. I can remember well our personal visit there, walking through that area with the hon. member and being most impressed—really I had to be most impressed—with the possibility of acquisition and development. But as you have correctly pointed out, budget constraint came in. We were dealing with the Chesapeake and Ohio Railway there. They in turn have, as I understand it, made a private sale to someone by the name of Drake, as you correctly mentioned. The thing is now in private ownership.

Mr. Spence: It has been taken over by this Mr. Drake?

Hon. Mr. Bernier: Yes, this is my understanding. Does somebody want to correct me on that? Mr. Foster says that's correct. Our interest is not the same as it was two years ago when we were, I suppose, a little fluster than we are today. Have we indicated this yet to the Erieau council, Mr. Foster?

Mr. Foster: I don't think so.

Hon. Mr. Bernier: We haven't.

Mr. Foster: We just ceased negotiations.

Hon. Mr. Bernier: Did you want something from us in a formal way to the Erieau people?

Mr. Spence: I would.

Hon. Mr. Bernier: I'd be glad to put something in writing to them, pointing out our position.

Mr. Spence: I would appreciate that very much.

Hon. Mr. Bernier: I'll certainly do it and send you a copy.

Mr. Spence: Thank you very much.

Mr. Bain: I have a number of items I'd like to raise, but because of time constraints I'll move on very quickly. The first item is one that was discussed with me yesterday by the member for Algoma (Mr. Wildman). Unfortunately, he returned to the House from his riding to ask the question yesterday, but we never got to the item, so he's had to return to his riding to attend previous arrangements.

The question deals with the possibility of the Ministry of Natural Resources establishing a provincial park on the north shore of Lake Huron between Blind River and Bruce Mines. As I am sure the minister is aware, the municipalities in this area have been asking the government for such a development, and that development would be good for the area. Myself and my wife and my wee son had the opportunity of holidaying in the Iron Bridge area this summer and that whole area I think would be appropriate for development along provincial park lines. There are many very excellent parks in Algoma on the Lake Superior shoreline, but none on the Lake Huron shoreline. Would the minister be prepared, at this time, to indicate the government's position on establishing a provincial park between Blind River and Bruce Mines?

Hon. Mr. Bernier: I think it is fair to say that there is a lot of attention being focused on that particular area at the present time with regard to industrial development.

Ontario Hydro of course and their plant which hopefully will go in that area—

Mr. Bain: The nuclear power plant?

Hon. Mr. Bernier: The nuclear plant, yes. That's somewhere down the road. Also there has been a lot of discussion going on with regard to the Eldorado uranium refinery plant into the Spragge area. A number of areas are looking at it. I think they are looking at the Burwash site and Port Dover and Port Hope and a few other areas across the province. So there is focus; there is attention on the Blind River area. As to the development of a park; I don't recall any enthusiasm for that immediate development. Maybe we can get a report from our senior staff.

Mr. Bain: Any enthusiasm from your ministry or from the communities?

Hon. Mr. Bernier: From my ministry.

Mr. Bain: Because there's lots of enthusiasm from the communities.

Hon. Mr. Bernier: I believe there is, yes; but here again, its constraints and budget cut-backs and land acquisition and development dollars are in short supply.

Mr. Bain: The restraint excuses a multiplicity of sins, doesn't it?

Hon. Mr. Bernier: It certainly does.

Mr. Vancart: I believe the property is known to us as the mouth of Mississagi and it was brought to our attention by the local government. We have investigated it; we have undertaken some archeological studies in the area and we have also undertaken some studies of the natural values in that area to determine whether or not the area could contribute to the objectives of the ministry as a provincial park. So we are considering it.

Mr. Bain: What is the conclusion of these—

Mr. Vancart: We haven't made our conclusions yet; the work is in progress.

Mr. Bain: When do you expect to be in a position to give some indication of the conclusions?

Mr. Vancart: The end of this fiscal year, this spring.

Mr. Bain: I would simply like to add that certainly, secondary industry is something that all members from the north have been pushing for for quite some time.

Hon. Mr. Bernier: Is that right? I'm glad to hear that. I'm glad to have that on the record.

Mr. Bain: And we haven't been getting any debate on the design for development plans and the strategy plans that have been tabled in the House by the Minister of Treasury, Economics and Intergovernmental Affairs. The establishment of secondary industry, which we don't feel the government is really pushing at all for the north, does not preclude the establishment of provincial parks. I think now, before any more development occurs in areas of the whole province, is the time for the government to stake out areas that would be suitable for provincial parks. Because, talking about budgetary restraints, in the years to come you won't be able to afford to develop that land and purchase it for provincial parks. Now is the time and I'm pleased to see the government

is actively considering a park between Blind River and Bruce Mines.

The other item that I would like to deal with at some length concerns—I really love this word—"privatization" of our provincial parks. Privatization—you are going to hand over provincial parks to private interests. Now I find that to be more than a little bit abhorrent. The provincial park system in this province, I believe, is excellent. I've enjoyed the system for many years. I think it is one of the finest anywhere in the world.

Mr. Haggerty: That's not what your colleagues say though.

Mr. Bain: It's one of the finest any place in the world. What I've been impressed by is the staff that maintain those provincial parks. You can see the extra special care that is put into maintaining those provincial parks. I'm sure you will agree with me that this kind of service is one that you cannot expect private companies to provide.

Any park developments that I have seen run by private companies just don't have that extra special care and attention you get in a provincial park. I can see that would happen if one was to pursue this idea of privatization. I think even your government will not pursue it, I hope. But if it's pursued what's going to happen is that people will lease a provincial park and run it for a few years as a private company. With the maintenance that is put in already on provincial parks, they can afford to run it into the ground and not put in any of the maintenance you've put in. Private interests could run a lot of provincial parks I have been in for two, three, four or five years without putting in any maintenance and make a good bundle out of them and then turn them back to the government as being unprofitable, as so many enterprises have been turned over to the government when private companies couldn't make any profit from them. Why on earth do you want to privatize provincial parks? I would simply like to ask that as a question and then follow up from your answer.

Hon. Mr. Bernier: In the review of government spending by the Maxwell Henderson report, one of their very strong recommendations was that we look at the possibility of privatizing some of our provincial parks. It is not just the handing over of a provincial park to the private sector. These are placed on bid proposals. We invite the public to bid on the operation of that provincial park, maintaining the excellent qualifications, the excellent rapport and the attitudes that we

have in our present park system. The only thing different in these two parks we have privatized is that you won't see any Natural Resources uniforms and there may be a charge for fuel wood.

The individual and his family would take on the job of operating that provincial park under the strict rules and guidelines laid down by the Ministry of Natural Resources. In essence, you wouldn't even know that it was being privatized except that our staff would not be there.

They would bid on it. They would submit a proposal. We would assess that particular proposal and inspect the park periodically during the summer to make sure that the high quality that we maintain in our parks is maintained in that particular park.

I would have to say to you that the trial has been a most interesting one and it has been a most successful one. In fact, I have already indicated that we would like to look maybe at broadening that particular programme and trying additional parks in other parts of the province and see how it works, to allow the private sector to get involved, to contribute, to bid on these particular proposals and to take the burden off of the public sector.

Mr. Bain: Are the guidelines you refer to the same for every one of these efforts? You have had two so far, Inwood and Sturgeon Bay. Are they the same or are the guidelines negotiated by the prospective lessees?

Hon. Mr. Bernier: The guidelines cover the operation of that particular park, the quality of the parking area, the cleanliness of it and this type of thing so that the maintenance aspect is kept up.

Mr. Bain: I don't want to get into a detailed look at these guidelines but would you be prepared to share with the members of the committee those guidelines and the contract that was signed with the people who leased Inwood and Sturgeon Bay?

Hon. Mr. Bernier: No question, we would be glad to do it. Really we would.

Mr. Bain: Thank you. If the private sector wants to get into provision of parks and there are many private companies that do already, why don't you just let them establish their own? Why turn over provincial parks? For example, services that you offer, such as slide shows and presentations by ministry personnel, who couldn't conceivably be hired out by these private interests, aren't going to happen in a private park.

Hon. Mr. Bernier: We haven't gone that far. The parks that we have here are relatively small parks as an experiment. We will move into that area very slowly. I don't see, say, Algonquin Park being privatized, that's for sure.

Mr. Bain: With your government, I am afraid that that's the end of the road. It could lead there quite easily.

Hon. Mr. Bernier: Certainly not. There are certain parks that will never be privatized. They just can't be because, as you correctly point out, we provide a service that's over and above what could be provided by the private sector. One of them is the interpretation centres, to which you refer. We want to maintain that quality. That's basically in the larger parks but there are a lot of smaller parks that could be operated by the private sector just as efficiently and maybe more so than we can do it in the public sector. The family becomes involved. The man might have four or five children plus his relatives and he is willing to work 14 to 15 hours a day, seven days a week. The cost to the government is considerably more than that. We have to go on a 40-hour week and pay a certain minimum wage.

Mr. Bain: The problem is that you have invested money already. The capital expenditures have taken place. I would like to know in the case of Inwood and Sturgeon Bay how much money it has cost the government to establish those parks so we can get a picture of whether or not the rents being charged to the lessee are reasonable.

Hon. Mr. Bernier: We can give you that information but it is not a rent, it is a proposal. We ask them to submit bids. There is no rent established.

Mr. Bain: But they have to pay.

Hon. Mr. Bernier: Yes.

Mr. Bain: Without taking any more time, I would appreciate receiving that information.

Hon. Mr. Bernier: We will make sure you get that.

Mr. Bain: Thank you very much. The other item is again information that we don't need to have presented item by item but information that I would appreciate receiving. How much money does your ministry provide for the various types of trails in the province that your ministry is involved with? If you have a ball-park figure—

Hon. Mr. Bernier: I thought it was \$500,000 last year as a ball park figure and we used some of it for maintenance within our own ministry programmes, and a certain portion we allocated to the various trail clubs throughout the province. If memory serves me correctly, I am told it was \$500,000.

Mr. Bain: And you could provide us with a breakdown of the types of trails?

Hon. Mr. Bernier: Yes, sure.

Mr. Bain: Do you provide any money for bicycle trails?

Hon. Mr. Bernier: No, we haven't yet. The only place we get into trails assistance programmes is snowmobile trails and, last year, cross-country ski trails. We assisted a few groups in that particular area. I think there is a demand, and rightly so, from the snowmobilers of this province who pay their \$10 registration fee and the gasoline tax. They are demanding something from the public treasury in return for that expense to them. The bicycle person pays a tax to the municipality. He has a municipal licence. He certainly doesn't pay any gasoline tax. The cross-country skier is not contributing in a licence way or paying any direct tax in relation to his operation, so that there is a little bit of difference. I would say to you that the Trails Council, established a year or so ago, is grappling with this situation and they are looking at it very carefully.

Mr. Bain: I am in obvious agreement. You would be willing to support ski trails. But, without rehassing what the minister has said, if you compare skiers and cyclists and Skidoos, the skier is in the same basic position as the cyclist. You are willing to assist, as you should, with ski trails; why then not with bicycle trails?

Hon. Mr. Bernier: I think it is fair to say that over the last two years we have assisted on a trails programme just on an ad hoc, year-by-year basis. There is no established policy for assistance to a trails programme. This is why we established the Ontario Trails Council which has a broad representation—I think something like 21 or 22 from right across this province—who are holding public hearings across the province to get the input from the public to recommend to us a policy which hopefully will take in bicycle trails, ski trails, horseback riding trails, snowshoe trails—the whole gamut. Then we can come forward with a very broad integrated trails programme that will take in all of the trails of the various groups.

Mr. Bain: When do you expect this committee's report?

Hon. Mr. Bernier: Well, I believe they are in Dryden this week, in my own constituency. Regrettably, I was not able to join them. I would expect this spring. In September, 1977, they will be coming forward with recommendations.

Mr. Bain: And that date has been set by the committee or by yourselves?

Hon. Mr. Bernier: I think by ourselves. Is this correct? We have asked them to hold regular hearings across the province and we have given them a term of reference and asked them to look at all these areas and to come forward with recommendations.

Mr. Bain: You don't envision that you would be able to embark upon an ad hoc policy as you have done in the other areas for bicycle trails in the meantime?

Hon. Mr. Bernier: I doubt it with the way dollars are right at the present time. I really don't see us having as large a programme this year as we had last year. Last year we had \$500,000 and I would be very surprised, even on an ad hoc basis, if we have \$500,000 this year. That is right before us at the present time. There has been no final decision made on that yet.

Mr. Bain: I am sure that as a parliamentarian you would agree that people in city life need the physical exercise. Many of us from the country end up here at Queen's Park and don't get the outside activity that we are used to at home and bicycle trails are things that I think should be available to people. If there is a definite demand, then it would be money well spent.

Hon. Mr. Bernier: That would be a municipal responsibility and I do believe the city of Toronto or Metro, has developed a certain number of bicycle trails.

Mr. Bain: With how much provincial money?

Hon. Mr. Bernier: Nothing from the province.

Mr. Bain: You should be able to find it in your heart. It is for a good cause—physical fitness.

Hon. Mr. Bernier: I don't manufacture money in my heart. My heart might be with the programme, but my pocketbook is not.

Mr. Bain: Well, we are trying to get to your heart first and your pocket book later. Thank you very much and I await the breakdown on where the money has gone for trails already and in other areas.

Mr. Reid: I would like to go, if we may, to the other end of the province where all the action is these days. Could you tell me what the status is of the Quetico management plan and when we can finally expect it?

Hon. Mr. Bernier: Implementation of the advisory committee's recommendations will continue. The surveying and delineating of the park boundary will be completed. The development of an in-lake entry station, including the entrance orientation office and a comfort station will be undertaken with completion expected for 1977. The interior ranger stations will all either be completed or upgraded. The detailed site planning will be completed for the Beaver House entry station. Maybe the staff has something more to add to that.

Mr. Reid: Well, when will the plan itself go into effect?

Hon. Mr. Bernier: Do you have a date on that?

Mr. Vrancart: We are in the process right now of designing and producing the master plan. We would expect to have that—

Mr. Reid: It has been at that stage for over three years now.

Mr. Vrancart: No, we haven't.

Mr. Reid: Or you have had the report for three years.

Mr. Vrancart: We have had a report, but we haven't felt it to be suitable for design production. We are in the process of preparing the document for printing and we would hope to have the document out to the public in the new year.

Mr. Reid: So I assume you didn't mean that the advisory committee—

Mr. Vrancart: No.

Hon. Mr. Bernier: You are sensitive on that.

Mr. Reid: Having spent minutes, let alone hours, on it.

Do I take from your comments then that the master plan will be printed and there will be public input into that before it is finally adopted by the ministry?

Mr. Vrancart: No; the master plan will be printed and will be circulated to the public as an approved ministry master plan.

Mr. Reid: And will you start operating under that as soon as it is printed?

Mr. Vrancart: In fact, we have started to operate under the master plan already.

Mr. Reid: Okay. One of the recommendations of the Quetico advisory committee was that the permanent committee be set up to police or monitor the actions of the Ministry of Natural Resources in regard to Quetico Park. The Algonquin Wildlands League has expressed concern over the years that the ministry hasn't been quite doing its job as capably as it might. As a matter of fact, I think one of their members took the ministry to court with a view to saying that the ministry had betrayed its public trust in the treatment of Algonquin. I take it that the recommendation of the Quetico advisory committee to have a permanent committee monitor it—an independent body—has not been accepted by the ministry.

Hon. Mr. Bernier: No, not in total, Mr. Reid. I think you will recall the setting up of the Provincial Parks Advisory Council. One of their responsibilities, on an ongoing basis, will be to review the master plans every five years. So, in essence, while we might not have accepted your committee's recommendation in total, I think the thrust of the recommendation was. The body has been placed in an ongoing way to make sure that things in the master plan are accomplished and achieved.

Mr. Reid: I would like to ask one question on the revenue side in regard to parks. Do you have the total revenue for last year?

Hon. Mr. Bernier: Mr. Hambly

Mr. Hambly: The revenue for 1975-76 was approximately \$5 million.

Mr. Reid: We are spending roughly \$28 million and we are taking in \$5 million although I realize that programme covers other things. I just want to reiterate one other thing that we discussed briefly the other night. It relates to the Crown land camping. Could the minister maybe give us a report on that? The original programme was to phase in the programme in northwestern Ontario as a pilot project and at the end of the five years, if it was successful, then to expand it across the province and in effect say to our visitors to the province that they had to camp in

these designated campgrounds. Because of the fire situation last year, the programme was kind of postponed a year. Are we two years behind now because of the fire season this year?

Hon. Mr. Bernier: I think the original idea was to have a three-year experimental period. The first year it hardly got off the ground at all because of the forest fire situation. The second year was a fairly good year for the programme. Last year, as you correctly pointed out, because of the forest fires I think the programme was just set aside and it operated on its own. So we don't have the statistical data we really anticipated or wanted to make a policy decision. Right now, we are grappling with the idea of continuing for another year, if funds are made available to us. Hopefully, that decision as to what we will do will be made early in the new year.

We have held public meetings in the area, I think, in two separate years. I have indicated that if we decide, or before we decide, on a policy with regard to Crown land camping that we would go back to those specific areas and hold general public meetings and discuss with them the information we have gathered over the last two or three years. I don't know if we will have sufficient information to go back this year. If we continue the programme next year then it will be next fall before we go back. We are still on a year-to-year ad hoc basis with regard to the Crown land camping programme.

Mr. Reid: You don't know whether it is going to go ahead in 1977?

Hon. Mr. Bernier: I am not sure at this point in time. We are searching out the budgetary aspects now for next year.

Mr. Reid: Did you notice or did your officials notice or report on the fact that perhaps the garbage situation wasn't as bad?

Hon. Mr. Bernier: Yes, I think that is coming through loud and clear. While some of the local residents are taking exception to competing with non-residents for a camping spot in the designated camping areas, they are very quick and very enthusiastic to point out that the programme has been effective to the point that the Crown land is not littered as it used to be. In other words, the camping public is becoming more conscious of garbage and litter in the countryside and in the side roads. I think the programme has been a success in that direction.

There is still opposition to allowing non-residents right to camp on Crown land, and

for the ministry to pick up their garbage. They are getting exactly the same services that the residents of the province are receiving. This is an area we have to come to grips with because it is causing certain problems. I don't have any answers.

Mr. Reid: I just want to reiterate that the other side of the problem is that it is not just the Crown land camping, but many Americans particularly are bringing their trailers up and parking them sometimes for more than your 28 days, in fact, all summer. It causes quite a problem in some particular areas. You indicated the other night you were going to review the 28 days.

Hon. Mr. Bernier: Yes.

Mr. Reid: It seems to me that should be reviewed. But I think you need some more control measures on these trailers particularly that are being left and taking up a spot. People go back to Minneapolis or Chicago and come up on the weekends, or their friends do. It seems to me you are going to have to work out some kind of programme to deal with that particular situation.

Hon. Mr. Bernier: You are right on there. I don't quarrel with the argument at all. This is something we have to look at. I would also add that the small private campgrounds in that area that is under control now have noticed a significant increase in their business. In other words, the individual now cannot camp in a gravel pit or a side road. He knows it is under control. He has to go to a designated area. So he either goes to a provincial park or a private campground. And that is improving the countryside considerably.

Mr. Reid: I am certainly in favour of the programme. I think it should be expanded. That is all I have to say.

Mr. Haggerty: To follow the remarks of the member for Rainy River, I did touch on this subject before—and this is the summation to the minister from the Federation of Ontario Naturalists. They were concerned about the non-reusable and non-combustible containers, particularly in Algonquin Provincial Park. To speed things up I'll read the last paragraph:

"It has now been well over three years since the ministry itself prepared the regulations necessary for the ban. The federation is deeply disturbed by the interminable delay but we are particularly distressed by the handling of the matter—repeated announcements of support for the principle without

any subsequent concrete action. With the 1976 camping season quickly approaching the the federation is anxious to see action on this matter."

Hon. Mr. Bernier: Can we comment on the ban-the-bottle regulation, Mr. Eckel?

Mr. Eckel: As I mentioned earlier, cabinet has approved, on a trial basis, a can and bottle ban in Quetico Park. The same sort of ban is now being sought for Algonquin, and as I mentioned before we expect cabinet approval, or extension of the approval, within the week. With that in place, we are in a position to ban the use of these non-combustibles in those two parks.

Mr. Haggerty: Surely it doesn't have to go to cabinet for that decision?

Hon. Mr. Bernier: Policy decisions have to mesh in and tie in with the Ministry of the Environment in its particular programmes.

Mr. Haggerty: There are provisions under the Ministry of the Environment now to prohibit the use of certain containers. There is a ban on them now.

Hon. Mr. Bernier: Yes.

Mr. Haggerty: The other matter I raised about provincial parks concerns the use of the park. People go in, perhaps not knowing what the rules and regulations are and destroy and pick flowers and cut young trees and things of that nature. Have you given this any consideration? It is one of the recommendations, too, that they should be notified of the regulations as they enter the parks.

Hon. Mr. Bernier: We have an information brochure when you enter the park which

gives you information what to do and what not to do. And then we have the interpretation centres that operate practically every night that point this out to the public. Our nature trail people go to great lengths to point out to those people what they should be doing and what they should not be doing and through direct contact. Maybe we should be doing more. I think that is something Mr. Eckel could look at to make sure that this is getting through.

Mr. Haggerty: The member for Thunder Bay was talking about the matter of hiring special people in that field. Maybe you should have a botanist on your staff to look after matters relating to plant life and that.

Hon. Mr. Bernier: That is a point.

Mr. Vice-Chairman: Since it is now nearly 6 o'clock and there are three more speakers, I wonder if the speakers would like to waive their right to speak and vote on this item?

Mr. Ferrier: I wanted to and I waived my rights so we can carry the vote at 6.

Mr. Haggerty: Well, you are talking about recreation areas.

Mr. Vice-Chairman: Just item 1.

Mr. Haggerty: Recreation areas and that.

Mr. Reed: I am prepared to waive my right in favour of my colleague here.

An hon. member: As long as he can do it by 6.

Item 1 agreed to.

The committee recessed at 6 p.m.

CONTENTS

Tuesday, November 2, 1976

Outdoor recreation programme	S-2523
Recreational areas	S-2523
Recess	S-2545

SPEAKERS IN THIS ISSUE

Bain, R. (Timiskaming NDP)
 Bernier, Hon. L.; Minister of Natural Resources (Kenora PC)
 Ferrier, W. (Cochrane South NDP)
 Haggerty, R. (Erie L)
 Johnson, J.; Vice-Chairman (Wellington-Dufferin-Peel PC)
 Lane, J. (Algoma-Manitoulin PC)
 McKessock, R. (Grey L)
 Miller, G. I. (Haldimand-Norfolk L)
 Reed, J. (Halton-Burlington L)
 Reid, T. P. (Rainy River L)
 Smith, R. S. (Nipissing L)
 Spence, J. P. (Kent-Elgin L)
 Stokes, J. E. (Lake Nipigon NDP)
 Yakabuski, P. J. (Renfrew South PC)

Ministry of Natural Resources officials taking part:

Bird, I. D., General Manager, Algonquin Forestry Authority
 Eckel, L. H., Executive Director, Division of Parks
 Foster, W. T., Assistant Deputy Minister, Southern Ontario
 Hambly, R. H., Director, Park Management Branch
 Reynolds, Dr. J. K., Deputy Minister
 Vrancart, R. J., Park Planning Branch



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SUPPLY COMMITTEE—2

ESTIMATES, MINISTRY OF
THE ATTORNEY GENERAL

OFFICIAL REPORT — DAILY EDITION

Third Session of the 30th Parliament

Tuesday, November 2, 1976

Speaker: Honourable Russell Daniel Rowe

Clerk: Roderick Lewis, QC

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CONTENTS

A list of the speakers taking part in the debates in this issue of Hansard appears, in alphabetical order, at the back of this issue.

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LEGISLATURE OF ONTARIO

SUPPLY COMMITTEE

TUESDAY, NOVEMBER 2, 1976

The committee met at 3:30 p.m.

ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL (continued)

Mr. Chairman: As chairman of this committee I would say there was a meeting this morning with the House leaders and with the chairmen of all committees as to the allocation of business into the future. It was, as much as possible and tentatively, agreed upon that this committee would try to finish its work a week from today, that is Wednesday next. There will not be a sitting of the committee on the Friday because of Remembrance Day and things like that. The intention is to free the Attorney General to get back in the House the following Tuesday to begin the work on the family law legislation—we don't know how many days that's going to take—so that notices may be given, etc., lining them up. This committee will then come back into session to deal with The Credit Unions Act in the first instance; and notices must begin to go out now, Fran, with respect to this.

Clerk of the Committee: Is justice policy not expecting to go in right after the AG?

Mr. Chairman: Yes, we'll come back in to hear credit unions.

Clerk of the Committee: Will we?

Mr. Chairman: Then the notices will be out leading into your three bills after that. That's our plan of campaign and I thought all members of the committee might be appraised of it so that we will direct our attention to that end and get this thing done.

Hon. Mr. McMurtry: I'm still not sure I understand my colleague John MacBeth as to when we expect to hear the estimates of—

Mr. Breagh: We've been over them.

Clerk of the Committee: No, there's a justice policy field.

Hon. Mr. McMurtry: Oh, that!

Clerk of the Committee: I understood that it was to follow immediately after the AG.

Hon. Mr. McMurtry: It will follow this before we go off the estimates.

Mr. Roy: Give us 15 minutes each and we'll tell you what we think of justice policy.

Mrs. Campbell: We can say it all in one word.

Mr. Vice-Chairman: Okay, could I remind you that we had agreed that the committee will not be sitting this evening? We'll sit tomorrow from 10 until 6. Then again on Thursday it will not sit during the evening; it will sit after the question period but not during the evening and on Friday. We agreed that we would set apart a portion of tomorrow's session, either the morning or the afternoon, to discuss the matter that Mr. Renwick raised initially.

Mr. Roy: What was that?

Mr. Vice-Chairman: On racial prejudice and things of that nature, which are partially provincial and partially federal. So, if that's agreeable we will set aside a portion of tomorrow's session to do that. I think we would probably simply say we would take the last couple of hours in the day or the first couple of hours, at the pleasure of the committee, to deal with that topic and that would be it.

We have a little difficulty gathering the speaker's list. People tend to indicate they want to speak and then leave and then we misplace them. The next one that I have on my list is Mrs. Campbell, who indicated yesterday she wished to participate; and Mr. Kennedy is also here. Mr. Stong is not here so we go—

Mr. Lawlor: Mr. Chairman, on a point of order. I was on; I had a list of stuff that I was doing then Mr. Renwick indicated an eagerness to get in and I knew he was going to be tied up in the House in legislation today. Then a number of other people came

in. I'm the last one in the world to step on Maggie's toes and—I don't know. I want to make a brief statement then I'll step out. Would that be acceptable? I think I'm on the list first.

Mr. Vice-Chairman: I could tell you to get yourself a good lawyer to argue the case. The way that I've got the list down is Mrs. Campbell, then Mr. Stong, then Mr. Kennedy and then I put you on again. But I'm having some difficulty in interpreting what's an interjection to pursue a particular topic and when someone is finished. I guess it would help me if you'd said: "I'm finished."

Mr. Lawlor: All right.

Mr. Vice-Chairman: Mrs. Campbell, if you'd care to yield.

Mrs. Campbell: Mr. Chairman, in the normal course I would. I am not a member of this committee but I have viewed with interest since yesterday, at least while I was here, that we seem to have one party in control of the whole situation and I would think that it is possibly not the best way to proceed.

However, in all fairness I am not a member of this committee so I would suggest that perhaps you would have to make a ruling on it since Mr. Lawlor is, of course, a member of the committee.

Mr. Lawlor: I cease and desist.

Mrs. Campbell: Thank you.

Mr. Roy: I knew he would, Marg, if you made it difficult enough for him.

On vote 1202, administrative services; item 1, programme administration:

Mrs. Campbell: Mr. Chairman, I will be brief. I was interested in the discussion yesterday insofar as I heard it. I would like to say in opening that I am concerned with a statement which the Attorney General made with reference to the Treasurer's (Mr. McKeough) position, simply because when we come to a matter of justice it seems to me that again we are apt not to consider it in its complete form.

I was interested in listening to the former Chief Justice McRuer addressing the company law committee and I think it was Mr. Lawlor who said—and forgive me if I misquote him—"We are approaching fairer justice" and the Hon. Chief Justice said, "I am not interested in fairer justice, I am interested in justice."

So we get to the question of the constituency to which Mr. Renwick referred in his remarks yesterday. There is no question in my mind that all of us who have analysed these statistics are concerned about them.

There is no question in my mind that the system is not working to the full advantage of those for whom it was designed. However, I am somewhat concerned by the suggestion that if we somehow change the system we will then bring into it the senior counsel and others experienced in these fields. I would remind you that at least when I started to practise law in the city of Toronto the family court, for example, was located in the bowels of the registry office next door to the garbage department, and I am not sure whether it was collection or disposal, but in any event, that's where most of the senior members of the profession felt it properly belonged.

I think lately there has been, in fact, a real change in that the more senior members of the profession are more actively engaged, at least in the Toronto court. I view this with a good deal of interest, but I don't think it has anything to do with respect to the Legal Aid Plan. I think it's due to the fact of the increasing complexities of the cases appearing there and of the fact that there is now an attempt to build up a jurisprudence and I leave that with you for what it may be worth.

The Attorney General, in addressing some people at the Clarke Institute recently, enlarged upon the role, which he is now developing as I take it, of the Official Guardian. As he may know I have been seeking this enlargement over a period of years and I wonder if he would comment on it as it might relate to the question of Legal Aid and duty counsel for children. Is he going to enlarge this aspect to the total spectrum of the child?

It originally arose in my case when it came to my attention that when a child of the poor had, in this case, lost a leg as a result of a motor vehicle accident, the family benefits, before the ink was dry, immediately moved to prevail upon the mother to approach the Official Guardian to have released all but \$1,000 of that award. It was at that time that I felt the role of the Official Guardian should be more of an ombudsman for children and less of an administrative officer.

I think I have to ask whether we are going to go that route and assist the child in that sort of case and others through the office

of the Official Guardian or whether we are going to rely on the more traditional Legal Aid duty counsel function. I'd like to say this, too, that so far as those appearing in the court are concerned, who come from, say, the Parkdale clinic, I would not want to minimize the expertise that these young lawyers have been developing. They have been excellent in my experience, short as it was, in the court.

I would not like it to be deemed that because they appear and they are junior someone is somehow being cheated. I would subscribe to what the Attorney General said when he felt that perhaps the senior partner would not be as proficient, in these areas at least, as some of these young people are today who are developing their expertise.

I am concerned, too, because it would seem to me that with the unification of the courts, if that is to come about—and I presume we will only be able to watch it as a project in Hamilton—again we will have a greater demand on the senior or more senior members of the profession in dealing with some of these cases. By the same token, there are a lot of needs in my riding as in Mr. Renwick's which are really not met by the Legal Aid Plan. I, too, am aware of the rather subtle discouragement that people seem to get as they move to try to get some assistance. I don't think, for example, that there is assistance to those who may have problems under family wills, for example. They don't know and they get no assistance, even in a preliminary way, as to how to proceed. When we are dealing only with the litigious cases, we're not bringing this particular service into full force and effect for those who need it. Of course, the cases in which patients are involved, and in which they try to make the parents take financial responsibility for a child's case are well known and well documented.

On these points, I would like to say that as I feel that, for instance, human rights should come within justice and not within labour, so I think we have to expand in our own minds the principle of justice for all of our people. Within that context, the Legal Aid Plan is, in my view, far too legalistic, if you like, and does not recognize the principle of justice which I think really appeals to everyone in this room—at least I hope so.

Hon. Mr. McMurtry: Mr. Chairman, Mrs. Campbell and I have had several conversations and exchanges of correspondence in relation to her concerns related to the rights of children. As I have indicated to her I

have discussed a number—but not all—of her concerns with the Official Guardian, Lloyd Perry, who is well known to her and with whom I think Mrs. Campbell would feel comfortable in discussing any of these directly—

Mrs. Campbell: Without question.

Hon. Mr. McMurtry: —at any time. I've always encouraged her to do so as I have other members of the Legislature who have expressed any concerns in these areas.

[3:45]

Personally I was not aware of any case today in which a child suffered such a very gross injury as in the example given by Mrs. Campbell—namely, loss of the leg—whereby family benefits would be receiving any portion of the award. I was certainly of the understanding that when a child received an amount of general damages, as opposed to an award related to out-of-pocket expenses or special damages, invariably virtually the whole amount, if not all the amount, of the award would go into court—

Mrs. Campbell: It does go into court.

Hon. Mr. McMurtry: —for the benefit of the child upon reaching the age of majority. I know in past years various welfare agencies have attempted to attach some of these awards in relation to adults certainly and in relation to children. As a matter of fact, I know of a number of cases in this field. I personally would like to know the extent of this problem, the extent to which children are being deprived of their general damage awards, and we will pursue that aspect of it with Mr. Perry.

I know another area Mrs. Campbell and I have discussed is in relation to what might be regarded generally as the battered child syndrome and the rights of those children to receive compensation from the board for victims of crime—which awards compensation to victims of crime. This is a very difficult area, as I think Mrs. Campbell fully appreciates, inasmuch as we want to be cautious and, even when a parent has acted brutally toward a child, not to drive a wedge in the relationship when there is any likelihood that the child is going to remain under the same roof.

In some of those cases obviously the child may never return to the home but in many cases it is considered by the courts to be in the child's interest to remain with the family. Of course, we are very concerned about doing anything which might provoke continued tension between the child and the

parents, particularly if the parents have to pay back some of this compensation. This is an area we are looking at in the context of these concerns.

The unification of the court—we have talked about that. When you spoke, Mrs. Campbell, I was reminded of Mr. Lawlor's remark—I think it was on the first day of the committee hearings—in which he expressed some frustration with the fact that we were not sort of proceeding forthwith with the unified family court throughout the province and were content to proceed with a project in Hamilton.

I think, Mrs. Campbell, you understand the difficulty but I intended to respond specifically to this earlier and point out or remind the committee of the very serious constitutional problem between the federal government and the provincial government with respect to federal jurisdiction. We could establish a unified family court throughout the province without going through a project as long as it was done at the county or Supreme Court level because then there would be no difficulty. The courts would have the federal jurisdiction and we could give them the provincial jurisdiction which they already exercise.

As I have made clear on many occasions in the past, and I make it clear to this committee, we in the ministry are very strongly of the view that the provincial family court is not only the appropriate place but the only reasonable place to establish such a unified family court if the community is really going to benefit. We feel the provincial family courts generally have a better understanding of the problems, are more closely associated with the community resources and will provide much greater access for individual citizens. We feel it would be a grievous mistake to establish any unified family court at the county court or Supreme Court level.

The ongoing constitutional debate with the federal government looked to me as if it could go on indefinitely, and in order to try to get on with the job we entered into an agreement with them to establish it as a pilot project at the provincial court level. Hopefully, we'll convince the federal people that this court should be established throughout the province at the present family court level, but it will require federal jurisdiction to do so and we think this project will help convince the federal government of the necessity for this jurisdiction.

Our problem is complicated a little bit by the fact that there is less enthusiasm in some

of the other provinces for a unified family court at the provincial court level. Quite frankly, some of the other provinces have not developed a provincial family court system to the extent that we have and some of the other provincial Attorneys General are reluctant to give their family court judges the same jurisdiction we would be prepared to give them in Ontario. I think it's important to note that there has been some division of opinion with other Attorneys General as to where the court should be established.

We are not only committed to the principle of a unified family court but we feel that it would be a great mistake to introduce it at any level other than the provincial family court, and that necessitated the pilot project.

Regarding the matter you raised, Mrs. Campbell, of appropriate assistance for people who have problems in relation to estates and what not and the difficulty in getting Legal Aid for this type of problem, all I can say is we'll take it under advisement. The community clinics may or may not be capable of offering advice in this area; perhaps they could be expanded, because again at least the preliminary advice might well be offered in a storefront clinic where the people don't feel they can afford to go into the traditional law office. We'll certainly take a look at that.

In relation to your point about human rights and justice being very much related, Mrs. Campbell, you wondered why the Ministry of the Attorney General did not have jurisdiction—

Mrs. Campbell: No, I'm sorry; I wasn't suggesting the Attorney General. I was suggesting the Provincial Secretary for Justice (Mr. MacBeth).

Hon. Mr. McMurtry: Oh, I see. In the justice field?

Mrs. Campbell: In the justice field.

Hon. Mr. McMurtry: In any event, we are very interested in the activities of the Ontario Human Rights Commission and during the past year, I think for the first time in some period of time, we have established a direct and continuing liaison with the Human Rights Commission so there is a continuing communication because of the obvious areas of mutual interest. Mr. Graham Scott, who is here today, has been spending a great deal of his time with the Human Rights Commission and is assisting them where he can in providing any services from our ministry that may be of assistance to them.

Mrs. Campbell: May I say one or two words further? When I spoke of the case in question, I think we had almost a year of debate with the then Minister of Community and Social Services. It was said at that time that while they would not make any statutory or regulatory changes, they were not going to pursue it as they had before, which leaves me with a great deal of unease simply because it could happen without anybody knowing it—and the pressures were intolerable.

If you are going the Official Guardian route—and I'm not prepared to say too much more about the Legal Aid route; properly, I think it should belong with the Official Guardian if you change him into something other than an administrative officer. That's why I mentioned that.

My concern was not so much with child abuse, although of course it's present, for the reason that you gave. My concern was in cases where children were the victims of offences which were contributing to juvenile delinquency, particularly sexual offences. The last suggestion I had was that your ministry would get the Crown attorneys to advise of the child's right but, since the father is often involved in an incestuous relationship with the child, it didn't seem to me that it solved anything. I would again like to see that going to the Official Guardian rather than to Legal Aid and duty counsel.

The duty counsel role is a very difficult role and I don't feel that it has been explored adequately, simply because of the changes which are made in personnel in the courts. As a result, there is no continuity and the duty counsel is not really well aware of what the role is, whether it is an advocacy role or whether, in effect, the welfare of a child should predominate in the thinking of the counsel. I think it's important that you make this clear decision. From my point of view, it should not be a matter of Legal Aid; it should be a matter for, in effect, an ombudsman for children in this province. Those are the things I'm appealing to you on.

I don't think there is adequate funding under Legal Aid to meet the problems of those who need it, but it could be that you could develop this ongoing Official Guardian route out of administration and into the role that you're now beginning to employ them in. But again, first of all, there isn't adequate funding. I've forgotten the number of cases in which Mr. Perry has intervened, but it's startling to expect one person to carry such a load on behalf of children. Of course, you've also got the whole

question of child welfare problems and others where the child is not represented by anybody at all—duty counsel, Legal Aid, the Official Guardian or anybody else.

I would like to say that I do understand your problems in the project in Hamilton, having been very much a part of the discussions of the family court judges on this whole unification situation. I don't think it was a conflict of interest of the judges when they felt the family court ought to be the court to have the kinds of ongoing jurisdiction in family matters. I really commend you for that project. Like Mr. Lawlor, I wish to goodness it would come out faster, but I do understand.

Hon. Mr. McMurtry: Thank you, Mrs. Campbell.

[4:00]

Mr. Kennedy: Mr. Chairman, some correspondence I have received has posed a question about the Legal Aid office. This correspondence is from a woman who states that, as a result of marriage breakdown, the matrimonial home was sold. My correspondent—and I'm sending you a letter, Mr. Attorney General, to ask for your comments on it—states that the Legal Aid office is holding \$1,500. She says they won't speak with her and they won't send her this money. It's my understanding that Legal Aid simply provided those who were eligible with a solicitor and that was the end of it. My question really is: Associated with the Legal Aid office, is there a kind of administrative setup similar to a public trustee or some such thing that administers funds or is she confused about this?

Is my understanding correct that if someone is eligible, a lawyer or solicitor is assigned to those who are in need and that is the end of it?

Hon. Mr. McMurtry: Yes, that's it. The only mechanism is with respect to assigning the recovery back to the Legal Aid Plan for payment of the services. But not other than that.

Mr. Kennedy: No funds are paid into the Legal Aid office or any such thing as—

Hon. Mr. McMurtry: No, only in relation to the fees, isn't it? That's what I said. This is as a result of a Supreme Court award.

Mr. Kennedy: Is there a provision whereby if you represent someone in a civil action and you get a judgement that judgement

goes to the—isn't there an undertaking that part of the fees are deducted prior to paying over the judgement?

Hon. Mr. McMurtry: Yes. This is it; the mechanism is with respect to recovery of a portion of the fees paid out of Legal Aid.

Mr. Kennedy: So if there is an award which changes her economic situation—

Hon. Mr. McMurtry: In any event, I will be happy to look into it, Mr. Kennedy, to see if we can assist you further.

Mr. Kennedy: Thanks. That's all I had, Mr. Chairman.

Mr. Lawlor: Mr. Chairman, this is not the forum in which I straighten out my difficulties, such as they are, with either my colleague, Mr. Renwick, or my party. I think the position taken is ill-advised. Just to be jocular about the matter, it came on at 9 o'clock on a Saturday morning; I wasn't there at the time, not that it would have made much difference if I were—I don't have that—

However, I don't wish to argue the pros and cons in this particular assembly except I have a couple of remarks to make. I shall try to dissuade my party on some future occasion from their move to dismantle Legal Aid within the Law Society and transfer it to a Crown corporation. I think it would cost a great deal more money and, although what the Attorney General expressed the other day or yesterday bothers me, I don't think you will have the dedication and loyalty and fidelity to Legal Aid, even to the extent that we have it at the present time, on a continuing basis.

I think the bar will not feel the same conscientiousness in that particular context, that aseptic environment, in dealing with a Crown corporation over against what is ostensibly their own organization, the Law Society of Upper Canada.

Two remarks I want to make are as follows. To quote first of all from the most recent report which has come to our desks in the past few days, the brief for justice critics of the Ontario Legislature meeting on November 1, 1976, on the first page, it says and this is worthy of being borne in mind:

"The committee reported that the voluntary plan [this was back in 1963] was not adequate to meet the existing demand for legal aid. Professor Friedland estimated that at least 60 per cent of all persons charged with serious crimes in Ontario cannot afford counsel and that in criminal matters only one person out of six in Ontario who required

legal aid was receiving it; that it made excessive demands upon volunteers and imposed a disproportionate burden on some members of the profession."

That was the first need to be met.

The contention, while it has a good deal of sense, that Legal Aid is not reaching the constituency for whom it was designed, is only true in part. That should be stressed. The true part is that it has met with duty counsel and, first of all, that whole criminal area which eats up about 50 per cent of the funds in this particular regard. Surely that has to be a blessing and surely that was an alleviation devoutly to be desired. This was an area of perhaps the most excruciating and pressing need and that's the whole purpose which is being met to that extent.

To argue that the intermediate, as they're called, those who tend for 18 years at the bar, are not participating to the extent that they should, having built up clientele and practices of their own, is something endemic to the human condition, as I see it, and is regrettable. They should be encouraged. Their responsibility in this particular regard should be stressed.

Turning to page 14 of the same report, "Included in this broad field are landlord and tenant matters." Those members of the bar I suspect on the whole give as much advice to landlords as to tenants—being financially ensconced—and tenants have to look elsewhere by and large.

Small claims court appearances—I think that after you have been at the bar a few years that you do tend to steer away from small claims courts. I remember I did a certain amount of work in this regard in the first few years for a collection agency in Toronto. I handled 20 cases a day in that court all the time.

Mr. Roy: You'd never know.

Mr. Lawlor: Well, there you are. I made \$5 a case. But it was wonderful training and gave you a sense of court and county court judges and the whole tenor-debtor problem; defence to charges under The Highway Traffic Act; liquor control and municipal by-laws; problems with municipal welfare and family benefits and all this. Lawyers in that category, of that age group, etc., knew very little or next to nothing about municipal welfare and family benefits or the whole area of tribunal and the whole area of poverty laws. It was a closed field to them.

Not that they are not interested—they are not—the fact is that we've got no training in law school in this particular regard. Our

hope, our bright hope, is with the younger generation of lawyers coming out of the law schools who have concerted courses in this particular regard. To say that the younger members of the bar are the ones who are handling this kind of thing, I say that's the nature of things. I can't take great issue with that.

We who have constituency offices deal with a wide range of problems and have had to acquaint ourselves over the years with the niceties of that type of legislation. Many members of this House who are non-lawyers are far better equipped than the legal profession to handle the matter and to do a better job. I notice just on the side that the average fee under Legal Aid for a lawyer attending before Workmen's Compensation Board is \$273. I wish we picked up \$273 every time we attended upon one of those hearings. All of us attend very often.

We prepare the case and argue it. You will meet members of the Ontario Legislature up there every morning of the week handling one case or another or maybe two or three. There is some alleviation from that particular point of view and the other agencies, the injured workmen's consultants, are now being funded and they should be. That takes the load off that way and they need not be lawyers to act in that.

The case is not as crushing or as exquisite as has been presented here in the last day or two.

All right. I have started on a list of matters. I thought we were going to have some exchange of views as to how Legal Aid may be more streamlined and how cost features may be worked into it. I got down to No. 4. I had, gratuitously perhaps, kept the prostitution industry operating and come down now to No. 4, restrictions on certificates of those who previously received a certificate.

Perhaps in this area there are people with as many as 20 certificates having been obtained. I would think that some view has to be given that after five or six certificates have been issued over, say, a two-year period, maybe three, that some special review of that particular application would have to be made. An overweening burden on the plan are individuals who are engaged constantly in criminal acts. I don't think it was designed specifically to meet the perpetual criminal; he should be represented on some occasion and he should not be excluded categorically either. There is always that instance where he has been harassed by the police and is the fall guy in a certain situation. Some

kind of review mechanism should be instituted.

On the other hand, it's la-di-da and hail to the courts the other way, with no great sense of responsibility; it's there and he is going to snafu it. That's an area which should be looked at very closely.

The restriction on the choice of lawyers: I think the answer to that is coming slowly by way of specialization. The Law Society has already designated lawyers for matrimonial, civil and criminal cases on their own hook. While the main body of benchers proceeds with an infinitude of slowness as to lawyers being able to designate themselves what they know and what they don't know, as the Attorney General I would give an impetus to that, urging the Law Society to come down and become more explicit on the specialization bit.

I don't see how that deeply influences the general practitioner. We, as general practitioners, think we know everything and by and large we do, but there are moments of weakness when we are handling bond issues or something of that kind that leaves a little to be desired.

On the sixth point—the students at family and small claims court. Small claims courts? I won't hesitate to say that I think it is a good training field for students. I think the individual can very well handle nine cases out of 10 themselves, even if the other side brings in a high-price—that is \$63 a day—lawyer to handle their particular case. And after all the law firms only send their students—

Hon. Mr. McMurtry: Sixty-five.

Mr. Lawlor: All right. \$65. I will up the ante. Anyhow, a good client—somebody who is giving them magnitudes of work, etc.—has a small claims dispute and so they will send somebody over to represent him. It won't be top legal counsel. I assure you, but he will get representation within the firm itself. That puts the other side at a disadvantage, I think, having the lawyer there, although I am not so sure. Of course, in other jurisdictions they have seen fit to say lawyers may not appear in those courts at all. They say this is an open forum for the litigants in a personal way and that should be looked at—

Hon. Mr. McMurtry: That's the situation in Quebec.

Mr. Lawlor: Yes, and I think it is a good idea too.

In the family court you can't restrict it to students; it would be a great mistake. Very often the problems there are problems involving evidence, involving a magnitude of seriousness for the individuals involved that requires highly trained and competent counsel and, by and large, they are not getting it at the present time.

There's only a very few lawyers who will go through the anguish, which is personally emotionally involving, in family court trials. I know a dozen who will do it and who do it every day of the week and I think they are to be commended but a wider number of the bar ought to be encouraged in that particular area.

[4:15]

The restriction of costs re family court and separation agreements is another mooted way of saving money—I think not.

In the area of restricting certificates for change of name, I would like to hear argument on that. My feeling is that they should be restricted.

The difficulty there is that the change of name applications already involve fairly substantial outlay by the individual. In other words, you have to advertise and the newspapers aren't easy on those charges and so the costs can mount quite a bit.

But because somebody wants to change their name, I think it has to be closely scrutinized. There are circumstances in which the anxiety of having to retain an existing name are such as to open it for Legal Aid, the person being relatively impecunious—but by and large, no.

The business of reducing fees and making more use of duty counsels in the experimental stage at the city hall in Toronto: Although I raise it one way at the opening statement, I take no great issue with that. The Legal Aid people never said that they weren't prepared to experiment with other programmes and have mixed programmes, and that it all had to be done by the private bar. They said the preponderancy of the private bar should be retained.

My argument on that is a constitutional one. If we are terribly jealous, maybe too jealous—certainly the judiciary are almost neurotically jealous of their prerogatives with respect to their independence—then that same principle extends to the bar. Within a democracy the fundamental premise is that there must be some degree of arm's-length relationship. That's one of the reasons I am anxious to retain the Legal Aid thing within the demesne of the so-called private area, namely, the Law Society, rather than a

Crown corporation which diminishes the distance and will inevitably diminish the distance and will lead inevitably, in my opinion, to a public defender system where the distance disappears.

We have talked a good deal about pre-trial discussions and when we come to the next vote, I would like to spend a few more minutes on it to see how you think they really should be structured, particularly in the criminal area, and what coercion, if we will, should be brought to bear upon counsel to sit down and discuss in good faith. Some kind of mechanism is going to have to be developed to afford that possibility.

On adoptions, the recommendation was that only in extreme cases—there I don't agree. A person who is prepared to adopt another child and is in relatively bad financial circumstances in that context ought to be given every assistance from the public realm to aid in the nurture and care of that child.

The reduction of Legal Aid areas has been suggested because the Osler report said that one of the faults in the present administration of the plan was that it was unevenly dealt with throughout the province, York getting the lion's share and getting the greater volumes and allocations and the other areas getting short-changed. Well, the recommendation as of yesterday that I got from the committee on Legal Aid was that the 46 areas were to be reduced, very substantially, into a regionalization, so there would be greater uniformity across the board and that lawyers out there in the province would be treated in a more uniform way over the whole spectrum of Legal Aid. If that comes about—and again I am asking you to use your influence to see that it is brought about—it would be a beneficial thing. I would even ask the Liberals, however much they hate regionalization, to—in this particular context—find it palatable.

The difficulty of our task of eliminating costs with respect to divorce and alimony actions, and certainly the divorce cases coming before the court are eating up a very substantial amount—I would think half a million dollars anyhow; that's too low—of Legal Aid money, but on the other hand, divorce has now become an endemic feature of our society. We all meet women every day who should be divorced and who aren't in a position—well, let's not get too close to home!

Surely the answer there again lies in the unified family court concept. I am not much prepared at the moment to again discuss this. I understand three provincial court judges will staff that court, and I have laboured under a misunderstanding about it. The Law Reform Commission suggested, of course,

that they had an echelon court, they had a hierarchy, they had a class "A" judge, Supreme Court, class "B", county court, class "C" etc, and you know that sincerely is not going to work too well. The inter-personal rivalry of judges, the jurisdiction layers, the cream cake setup in that proposed court, I suppose that's one of your difficulties. On the other hand, I understood that you had reached for the first time a very substantial understanding with the federal people in the Ministry of Justice and that the federal Law Reform Commission, the reform commissions of practically every province, practically everybody is in consensus over the thing. The only problem, it seems to me, was how to structure but you can clue me in as to why. I thought the break-through had been made and once having broken through why not grab the nettle, because the crying need is so overwhelming and so great and, in doing that you would alleviate all the other courts. You wouldn't have the court pressure situation which you presently have.

Hon. Mr. McMurtry: What is your suggestion, Mr. Lawlor?

Mr. Lawlor: I come on estimates once a bright year in order to find out what the thinking of the Attorney General is and I spend my whole time clueing him in! That's my opinion.

Hon. Mr. McMurtry: Maybe you have more influence in Ottawa than I do. If you can convince the federal people to amend The Divorce Act, for example, and give our provincial court judges jurisdiction, be my guest. I will even pay for your plane ticket down to Ottawa.

Mr. Lawlor: What have they agreed to on this? Are they participating in that pilot project at all?

Hon. Mr. McMurtry: Yes, they are. You see, what happened—

Mr. Lawlor: By granting jurisdiction?

Hon. Mr. McMurtry: —what is happening on this pilot project, and I guess you should understand this—

Mr. Lawlor: Yes.

Hon. Mr. McMurtry: —is it necessitates three of our family court judges resigning their provincial court appointments and being appointed by the federal government.

Mr. Lawlor: To the county court?

Hon. Mr. McMurtry: Yes. In effect, to the county court.

Mrs. Campbell: Just interim in nature, was it not? Their commission as county court judges is limited, is it not?

Hon. Mr. McMurtry: No, it is not going to be limited.

Mrs. Campbell: Oh. That's news. I thought it was.

Hon. Mr. McMurtry: The federal government, of course, we only have their assurance at the present time that they will do this with respect to three individuals in order to get the project going. There will be three of our judges and they will carry on in the same facilities and there will be legislation as I indicated—

Mr. Vice-Chairman: They will need legislation for the county court judges to—

Hon. Mr. McMurtry: Yes, and they will be ex-officio members of the family court, but they have to resign their family court appointments.

Mr. Roy: They shouldn't mind that. They will get a pay increase.

Hon. Mr. McMurtry: The federal government wouldn't go along with any concept of dual appointments.

Mr. Lawlor: And who—here's the nice little point—who in subsequent cases will appoint whom?

Hon. Mr. McMurtry: We have indicated that we are not going to surrender our appointing power; and that is yet to be resolved, we could have continued to debate it for the next 10 years. I personally wasn't prepared to. I thought it was important to to this project, to demonstrate its value in clear unequivocal terms to the government, so that it should be overwhelming for the federal government to amend their own legislation in order to give our family court judges this necessary jurisdiction.

Mr. Lawlor: So they're to carry along with them the full panoply of jurisdiction presently on this issue within your demensne and then they will bring with them the divorce procedures, alimony, and other procedures presently in the hands of county court and Supreme Court judges?

Hon. Mr. McMurtry: That's right.

Mr. Lawlor: Well, all right, it's a beginning.

Mr. Roy: I may be too technical, but presently alimony is in Supreme Court, and county court judges don't handle that. Will our legislation amend that?

Hon. Mr. McMurtry: Yes. Our legislation that we have introduced, in effect, replaces the alimony action.

Mr. Roy: Just so I understand that, what you are saying basically is that the feds, who surely must realize the necessity of a unified family court, are not prepared to relinquish their jurisdiction in the divorce field really?

Hon. Mr. McMurtry: They expressed concern about conferring upon every family court judge, not only divorce jurisdiction but they allege there are some constitutional problems in relation to jurisdiction in relation to property matters as well.

Mr. Roy: Yes, but the average guy on the street doesn't give a darn who's got jurisdiction in what.

Hon. Mr. McMurtry: You're absolutely right.

Mr. Roy: And it is just absolutely ludicrous.

Hon. Mr. McMurtry: That's your friends in Ottawa.

Mr. Roy: Well, don't put them too friendly. But isn't it ridiculous? Maybe that should be said publicly some time. You said this before, about making this public or getting public response to something like this. As I understand, what they are saying basically is that if we give your provincial judges these appointments then our appointees in the county court and Supreme Court might have less work to do and then we won't have as many appointments?

Hon. Mr. McMurtry: No, they're not saying that. I don't know what is necessarily in the back of their minds. I am probably less adept than you are, Mr. Roy, at trying to read them, but they claim there is a section with respect to section 96 of our constitution in relation to granting provincial appointments section 96 jurisdiction. Mr. Campbell, who has been party to many discussions with the federal representatives over the past year, can give you more definitively the full extent of their objections. Quite frankly, many of their constitutional concerns did not impress me but, of course, in view of my reputation as a constitutional expert the fact that they would not impress me does not necessarily matter, and I am not quite sure they impressed even the

Minister of Justice for Canada to that great an extent. I really don't think he had any personal problems in relation to referring this jurisdiction but some of his senior advisers really were hung up on this question. As I say, Mr. Campbell who was party to a number of conversations and much correspondence, perhaps could explain it even more fully the extent of their constitutional concerns which, I said, did not make a great impression on them.

[4:30]

Mrs. Campbell: The federal people had two or three objections. The basic one was what they called the constitutional problem of taking somebody who was a provincial appointee and conferring section 96 jurisdiction upon him. I think their argument flowed from the proposition that if the federal government conferred section 96 jurisdiction upon a provincial appointee that was somehow restricting the class of persons from whom the Governor General could appoint section 96 judges, and that that was constitutionally offensive.

From our point of view they just conjured up a constitutional phantom because in fact every court judge who is now appointed in the province is also appointed a surrogate court judge by the province at the same time. Their answer to that is sort of vague and obscure. I think they have some sort of an historical argument about the jurisdiction of surrogate court judges at the time of Confederation. There are footnotes in some of the law reform commission points about that point. As far as we are concerned, it is a constitutional phantom. They held firm to the point of complete intransigence on it and it appeared that the project would simply not get going unless they had their way with respect to that dual appointment issue.

Mr. Roy: Yes, but I am trying to understand the motive to conjure up that argument. The only thing I can think is that if they give provincial court appointments that type of jurisdiction, section 96 jurisdiction, they must feel that their people, their appointments, will have less work, and therefore less appointments and less goodies to give up.

Hon. Mr. McMurtry: They haven't said that.

Mr. Roy: I know they didn't say it, but you always look behind people's motives and ask what is driving them to say something like that when the practicality is so obvious.

Hon. Mr. McMurtry: I agree with you, Mr. Roy, that the motives may very well be suspect.

Mr. Roy: Yes.

Hon. Mr. McMurtry: Mr. Callaghan, the Deputy Attorney General, has wrestled with this problem.

Mr. Roy: Really I don't see what they are concerned about. We have just established a new court up there, the federal court. They have got all sorts of appointments there, in the Supreme Court of Ontario, Court of Appeal, Supreme Court of Canada, and county court.

Mr. Callaghan: The position initially started off to be that they couldn't confer that jurisdiction on a provincial appointee. Of course, if you look at your whole provincial court, in the criminal division, it exercises a federal jurisdiction. It was at that point they backed off to the section 96 position, based on the John East case and that whole line of cases, which said it would be an exercise by provincial appointee of something that was fundamentally a superior court jurisdiction. The county court judges could exercise it now because they are appointed local judges of the Supreme Court. Provincial court judges will never be in that position. That is the technical position they take with section 96.

It really would represent an incursion into their appointing power and I think that is one of their major concerns.

Mr. Roy: Sure, that is the only motive I can see.

Mrs. Campbell: Isn't there also the other one, which was mentioned by the Attorney General and which has been mentioned to me; that is the fact that this seems to be the only province that is interested in this, and that what they have to do is to try to get a greater consensus among the provincial Attorneys General? Is that not part of it?

Hon. Mr. McMurtry: Yes. I think Manitoba is prepared to go the same way we are, but in a number of the provinces, quite frankly, the Attorneys General expressed some concern about conferring this jurisdiction right throughout the family court system.

Mr. Roy: The point I get frustrated about is that if you look at the Quebec system the jurisdiction there is about property and criminal law and all that. They have all sorts of levels of judges who are handling both. For instance, their provincial court judges in

Quebec, provincial appointments, are handling civil matters, are they not?

Mr. Callaghan: That is right. They have a municipal court that handles what our provincial court does, plus civil matters up to \$3,000 I think it is—what we would treat as small claims work. The Quebec municipal court has a jurisdiction up to \$3,000. But they have a merged supreme and county court. They have one superior court. They don't have to grade their jurisdictions to meet the existing hierarchy.

Mr. Roy: I don't want to take too much time on this, but I had the feeling the other day that you seemed to be getting more co-operation with this present Attorney General, Mr. Basford. Is that still the position since Basford is in?

Hon. Mr. McMurtry: Yes, I think he's been quite co-operative and our relationship has been generally quite productive and carried on in a very cordial manner. I think at this point in time he's simply not prepared to reject the advice of his senior law officers in respect to this constitutional problem.

Mr. Lawlor: Just some flotsam and jetsam, to fill up.

Form divorces, by the way. Did you hear about the lawyers in British Columbia who have a bet on as to how quickly each one can get through an uncontested divorce action in the courts? I want to report to the Attorney General that the fastest one, or the one who is the leader by far, is the 48-second man. I suspect with various hormone treatments and whatnot that goes on, somebody else just might hit 46.

They shouldn't be paid the amount of money they are for that kind of service. Anyway, I suspect that's for the Law Society to determine.

What remains perhaps a bit of a scandal to the plan is the amount of money owing from people who have committed themselves. Now lots of reasons have been given for that. There are two wings to that bird, and the first wing is that it's been proposed that people be required to make a prepayment. In other words, they give a retainer of some kind if they are in a position to pay at the beginning rather than at the end of the thing.

I think that that should be promoted. Most lawyers, the ones I know, will not take a criminal case without receiving a full payment in advance, or tying up something so badly by way of mortgage or lien that they are jolly well going to get paid. I don't think

Legal Aid does that particularly; I guess they're loath to do it. At the same time, if the person is judged capable of paying, why not receive the money at the time of the issuance of the certificate and make the reception of the money a condition for the certificate? I don't see anything wrong with that.

I've been told by lawyers that not nearly enough effort is made to locate assets and to pursue individuals owing the government very substantial sums of money, into the millions of dollars. Again, if that money or even any particular portion of it were collectable it would greatly alleviate the anxieties of the Law Society itself with respect to the financing of the plan. Has the Attorney General anything to say on that point?

Hon. Mr. McMurtry: I gathered you were talking of the proposal of the committee of the Law Society in relation to certificate fees. You've probably seen their estimates of costs effective in this. Starting with a certificate fee of \$10, I think that would produce an income of \$1 million and therefore \$50 would produce \$5 million.

Mr. Lawlor: What page are you looking at, Mr. Minister?

Hon. Mr. McMurtry: But in any event I think what we have to come to grips with is what would generally be regarded as a deterrent fee. My own view is that making some initial charge for a certificate, for people who are not in custody in least, has some merit and is worth considering.

Mr. Lawlor: It's now been agreed that all people on welfare are automatically within Legal Aid and don't have to go making a review of their assets, so there are a very wide number of people right there who are eligible without anything more. But in that area where they adjudge the individual to be in a position to make compensation to the plan in some degree, that should be begun at the beginning and not wait until the end, when the case is over, they've been adjudged guilty and they've lost interest and walked away.

Then there are all these judgements. I'm looking at the 1975 report on this: \$4,919,000 were received by reason of judgements for monetary recoveries and judgements for costs. Again I would like some comments as to what methods are being used, or how effective they are in the recovery of that \$5 million. It's mounted of course this year; I haven't got the figures in front of me.

Mr. Vice-Chairman: The vote on second reading on the housing bill will take place in about 15 minutes. At about 10 minutes to 5, they'll call that vote.

Mr. Callaghan: Mr. Lawlor, in that regard there's not a great deal we can do because of the existing practice of awarding costs in divorce cases. As you know I think, divorce cases take up approximately 25 per cent of what goes into Legal Aid and in the greatest percentage of divorce cases the award of costs is meaningless. So a great percentage of the outstanding funds will not, I believe, ever be collected.

This year to date we show an increase of approximately \$9,000 received from client contributions over last year. Presently we've collected \$622,000—I shouldn't say we; Legal Aid has—from client contributions. They've received on account of client recoveries—i.e., somewhat similar to the thing Mr. Kennedy was referring to where they have a charge against it up to the cost paid—\$373,000. That again represents an increase of approximately \$10,000 to date this year over the same period last year.

Generally the figures reveal, Mr. Lawlor, that they are making a definite effort to improve their collection rate. But as long as we are faced with the situation where costs are awarded in those cases, the book figure of outstanding funds will always remain large. I don't think that we can answer that question any more than that. We've—

Mr. Lawlor: In the figure on motor vehicle claims have you any breakdown as to outstanding costs in that regard?

Mr. Callaghan: No, but we could ask for that. If you would like to have that—

Mr. Lawlor: It would be interesting to see what that was.

Mr. Callaghan: You see, what you are talking about here of course is approximately less than 50 per cent of Legal Aid expenditure in civil matters. A certain percentage goes to advice; then there's a percentage going into divorce; then you end up with your contested litigation where costs are meaningful. But costs are not meaningful in criminal. They are not meaningful in divorce, except the odd case. There is no provision for costs in advice. And costs are not meaningful, of course, in duty counsel situations, which are the basic categories the accounts are broken out into.

I know we're faced with that book debt—or the plan is faced with that book debt—

every year. In a sense I suggest it is a little deceptive. Osler recommended it be written off. We haven't got around to that yet.

Mr. Lawlor: All right. The Peterborough county pilot project; I would like it that you are basically in favour of it and when your economic restraints are lifted that will go ahead.

[4:45]

Hon. Mr. McMurtry: There's no question but that we support the Peterborough project. I must admit for a moment I thought that we already were doing some funding there, but right now at the moment we can't afford it out of our present allotment.

Mr. Lawlor: Just one final question under this item 1. For the first time you're giving grants to the Canadian Law Information Council of \$107,000. Justify it.

Mr. Callaghan: The Law Information Council is reporting on law in this country. As you know, the law report in this country is in an awful mess. The various provincial law associations and bodies are putting out a plethora of reports. It's very difficult for anybody to determine what exactly the state of the law is at any point in time.

Mr. Lawlor: Do what I want you to do.

Mr. Callaghan: The Canadian Law Information Council was established by various governments. All governments in the country decided to participate in establishing a uniform law reporting system. They established the Canadian Law Information Council. Each government put a representative on it and each agreed to fund it. The federal government agreed to fund 50 per cent of the cost of the Law Information Council, and each province agreed to fund it in proportion to its population. Ontario's contribution for this year will be \$107,000. I think the federal government's contribution will be in the neighbourhood of \$400,000.

What the Law Information Council is doing now at this point in time is developing a quick law programme at Queen's University, putting it on computer and making it available to the courts of the provinces of Ontario and Quebec. Eventually they'll be expanding it across the provinces so that there will be a computerized law retrieval system in this country. There will be a unified court reporting system in the country, hopefully. It's a function of the Canadian Law Information Council to develop a unified court reporting

function for all the court reports in this country.

Access to the law is one of the subject matters of Dean Friedland in his book. He pointed out what a mess we're in with reference to the great multitude of reports, the various systems of indexing and the great difficulty that everybody has in finding out what the law is. The fundamental purpose of the Law Information Council is to develop a unified system for this country. There are only 10 jurisdictions that it really has to be done for, and there's really no reason why it can't be brought under one roof. The ministry decided to support that council, hopefully, to bring some order into what we consider to be a considerably chaotic situation.

Mr. Lawlor: Spoil sports. You're going to spoil all the fun.

Mr. Callaghan: It's going to make it less difficult for lawyers to charge bills like the kind we've seen today.

Mr. Vice-Chairman: Perhaps we could interrupt here and reconvene after this particular vote is taken. Is that agreeable or do you want to call it a day? You could probably still get in a half-hour or three-quarters of an hour.

The committee recessed for a vote in the House.

On resumption:

Mr. Vice-Chairman: Mr. Lawlor, are you finished?

Mr. Lawlor: I'm finished for the moment.

Mr. Vice-Chairman: Mr. Roy?

Mr. Roy: I just want some clarification about the budget for Legal Aid for the coming year. If I read correctly the press reports of the last few days, I think you were saying we've got trouble or something because we're running out of funding from the province for the Legal Aid system. As I understand these figures, the provincial treasury is providing something like \$23 million to the plan this year. I refer to the figures on the last page of the brief for the Justice critics.

Hon. Mr. McMurtry: That's what we estimate the cost will be, but there is not that amount in the budget; so we will have to be going back to Management Board for additional funding to meet the government's statutory obligation.

Mr. Roy: Just so I understand it, what has been provided and what are we short of?

We're projecting \$23 million; what have we got now?

Hon. Mr. McMurtry: There is \$18,421,500 in the budget.

Mr. Roy: As I understand it, the projected contribution on the part of the provincial treasury will be less in 1976 than it was in 1975.

Hon. Mr. McMurtry: I don't understand that.

[5:30]

Mr. Roy: The contribution by the provincial treasury for 1975 was estimated at \$25 million, according to figures I have here, but for 1976 it's \$23 million. Therefore, it would appear to be less for 1976 than in 1975. If you look at the last page—

Hon. Mr. McMurtry: Yes, we're looking at that now. We hope to get an additional \$2 million this year out of the Law Foundation, over and above what we received from them last year. In other words, their contribution is going to go from \$4 million to \$6 million.

Mr. Roy: I see. The figures here would appear to indicate that the Law Foundation would be contributing something like \$3 million. You're expecting to get \$6 million, is it?

Hon. Mr. McMurtry: Approximately \$6 million, yes.

Mr. Roy: As I understand it, the contribution by the provincial treasury includes the contribution you get from the federal government, doesn't it? Is it \$1 per head or something?

Hon. Mr. McMurtry: It's not \$1 per head; it's 50 cents.

Mr. Roy: Fifty cents per head?

Mr. Callaghan: It's 50 cents per capita, going to 75 cents this year.

Hon. Mr. McMurtry: We were getting 50 cents, and I believe the deal we negotiated with them is retroactive to the beginning of our fiscal year.

Mr. Callaghan: For 75 cents a head.

Hon. Mr. McMurtry: So at 75 cents a head, there will be approximately \$6 million from the federal government.

Mr. Roy: I see. The point I want to make is that, as one who believes in the system and would like to see the system work but

knowing the constraints that are on not only the ministry but this particular plan, I find it somewhat discouraging to see a situation where, by and large, we're going to cost the provincial treasury less for the coming year than last year, and yet at that we're being cut off—

Hon. Mr. McMurtry: What do you mean we're being cut off? I don't understand that.

Mr. Roy: If you look at your statement in Windsor or your statement just the other day—and I'm not saying you're the one who is suggesting that—it would appear that there are tremendous pressures to curtail the cost of that plan.

Hon. Mr. McMurtry: No. There are—and I think this should be firmly understood—there are pressures to curtail any abuses of the plan, particularly as these abuses have an enormous impact on the courts generally. But, as far as we're concerned, anybody who is properly eligible is entitled to the full benefits of the plan. We're not trying to reduce the coverage.

Mr. Roy: But there have been threats or that sort of thing, that we want to establish some figure—

Hon. Mr. McMurtry: No, some concern has been expressed by the committee that was headed by Maxwell Henderson, the special programme review committee. A number of recommendations were made to the government, purportedly on behalf of the taxpayers of the province, and one of their principal criticisms of the government was about any open-ended programme. Obviously the people who are running the Legal Aid were aware of this criticism; I certainly made them aware of this criticism.

I don't see how you can change the open-endedness of the character of the plan without bringing in a full public defender system, with everybody on salary. I think that's the only way you can change the character from an open-ended plan to one that isn't, which I don't favour. So my message to the profession is this: The abuses of the plan are relatively minimal, in my view, but they receive a high public profile. If the profession is going to continue to administer the plan, it means that the plan will continue to be open-ended. And in order to ensure continued public confidence in the plan, the profession has responsibility to eliminate, where possible, any abuses which only can serve to discredit the plan and which would therefore lead to pressure not only to remove the plan from the administration of the Law

Society, but might well lead the public to advocating a form of public defender system whereby the lawyers who are involved in the plan are all on salary. That's really the only way you end the open-endedness of it.

So, my message to the profession is that if we're going to maintain the plan more or less with its present character, then you've got a job to do.

Mr. Roy: But I don't quite understand the attack on the plan because—

Hon. Mr. McMurtry: I don't know what you mean by attack. Whose attack on the plan?

Mr. Roy: No, no; let's say, be it Henderson or—I get a feeling that within the—

Hon. Mr. McMurtry: There are a lot of attacks on the plan. As I said yesterday, one of the high profile attackers is a former celebrated member of the NDP caucus, Dr. Morton Shulman, who is one of the most vocal critics of the plan.

Mr. Roy: Yes, but the point that a lot of these people seem to forget, whether it's Morty Shulman or Henderson, is that by and large we've been fortunate within the Legal Aid Plan on the funding side of it. Much of the increase in the plan has in fact been borne, not by the provincial treasury but by—you know, we've had the Law Foundation come in and put in some money; the federal programme has helped. By and large, it's not been all that taxing on the provincial treasury, the increase in the use of the plan since 1975.

Hon. Mr. McMurtry: I understand your point, Mr. Roy. It's not my view that the contribution from the provincial treasury to the Legal Aid Plan should be in any way whatever reduced. I would like to persuade my colleagues in the cabinet to continue to increase the cost of the plan as long as the taxpayers' money is being well-spent and as long as those who are in need of the assistance are the recipients of the assistance.

Mr. Roy: Yes.

Hon. Mr. McMurtry: I have no desire whatsoever to cut back the—

Mr. Roy: Yes. The only point I wanted to make is that I—

Hon. Mr. McMurtry:—expenditure in relation to the plan.

Mr. Roy: The point I wanted to make and I don't think it's been made before, or at least I haven't heard it made before, is that

there are some contributions through the Law Society, the Law Foundation and this type of thing, which really have contributed to the plan, for which no credit is given.

Hon. Mr. McMurtry: If anybody asks me, I'm quite prepared to say, yes, I think it's great that the Law Foundation is giving \$6 million. I think it's great that the federal government is giving us another 25 cents per capita. I think they should have given us more. We think they're being pretty bloody stingy, and I tell you I had a hell of a row with the federal government as did all of the other provincial Attorneys General with respect to their stinginess in the plan.

Since you brought the subject up: We had a very stormy session with the federal government. I remember the meeting, I guess in the fall of 1975, particularly as the then Minister of Justice, in June 1975, had made a speech. I think actually someone else gave the speech in his name, to be totally accurate, which provided great vision of the future with respect to an expanded Legal Aid plan, setting out a number of very desirable objectives and goals in relation to the expanded service that they anticipated for the plan which, of course, necessitated substantially increased federal funding.

Now, this was important to us in Ontario, but not as important as to some of the other provinces because actually we were the fore-runners; we were prepared to go it alone. But I'll tell you, the federal government sold a number of the other provinces down the river on Legal Aid and you should know that. They created a level of expectation in relation to delivery of these services in many of the provinces that was well received but unrealistic without substantial federal funding. After making this great bloody political speech, in June 1975, the federal government, under the pressures of the day, decided to backtrack and, in effect, renege on what appeared to every Attorney General to be a pretty firm commitment. There was an awful battle for us to get 25 cents per capita increase in contribution.

As I say, our concern is not so much in relation to Ontario, quite frankly, because we had adopted the principle long before any other province and we felt that we were going to continue to improve the plan with or without federal funding. It certainly pulled the rug out from under a number of other provinces. I just think you should appreciate that, some of the background.

Mr. Roy: I'm not without appreciating that but I want to move on to another point. That is the suggestion that Mr. Lawlor mentioned,

at least it emanated from his caucus, that you take the plan away from the Law Society and give it to something else to run, a government corporation or whatever. I wonder, if you did that, how much more it would cost. Something that is forgotten or something that is not known by the public as well is that the Law Society contributes 25 per cent to the plan.

Hon. Mr. McMurtry: I see there's a wrong figure here. Remember I gave you the wrong figure? My understanding before had been the Law Foundation was \$3 million and I mentioned the figure of \$6 million. I'm not sure where I got it from.

Mr. Callaghan: It's my fault. I gave the wrong figure.

Hon. Mr. McMurtry: It is, apparently, \$3 million.

Mr. Roy: I see. I wonder, as a matter of interest, why your estimate from the Law Foundation in 1977 would be lower than in 1976? Do you expect less money into the trust funds, less interest?

Mr. Callaghan: There will be less money under the Law Foundation because the payments we got out in 1976 represented an 18-month payment with a carryover from the previous six months, whereas this year it will only be a 12-month payment.

Mr. Roy: I see.

Mr. Callaghan: If you will recall, the Law Foundation first started up 18 months prior to the 1975 payment. That's where the discrepancy comes in.

Mr. Roy: The other thing which is not shown necessarily in dollars here is the contribution by the lawyers of 25 per cent. One wonders whether lawyers should be prepared to cut their fees or to take a 25 per cent cut if the thing was run, let's say, like OHIP, or by somebody else. The doctors are subsidizing it to some degree 10 per cent—if they work within the plan.

One has to wonder, apart from the 25 per cent contribution by the lawyers and all the other time that is spent by very capable members of the profession in administering the plan and at meetings and so on, how much that would increase the cost of the plan if it was run by some separate foundation or corporation.

Hon. Mr. McMurtry: I agree with you. I don't know whether you were here, Mr. Roy, when I made the very point that there

would be, in our view, a very substantially increased cost to administer the plan if it were not for, as you say, the dedicated involvement of many lawyers across the province in contributing their services without fee, without compensation, toward administration of the plan.

What I would like to hear from you at your earliest convenience, and from your colleagues in the Liberal Party, is what your position is in relation to leaving the administration of the plan with the Law Society of Upper Canada. This is an important decision for the Law Society obviously, because, as far as their future plans are concerned, it's difficult to plan when the future is so much in doubt.

I think Mrs. Campbell seems to be quite supportive of the position of leaving it with the Law Society of Upper Canada. We have a division of views between our two distinguished legal colleagues in the New Democratic Party. One would leave it with the Law Society and the other would follow the dictates of the most recent convention.

Mr. Roy: I have already expressed my views at the beginning of this—personally I see no compelling reason to take it out.
[5:45]

Hon. Mr. McMurtry: I appreciate that. Perhaps I should make myself a little more clear. I think it's important for us, in order to assist the Law Society, to be able to communicate to them the view of your party. Your party, like all political parties, does not always speak with one voice. I suppose neither the Conservative Party nor the Liberal Party benefits by the rigid discipline that all of our colleagues in the official opposition subscribe to, so it's important for the Law Society to know, where possible, the views of the Liberal caucus just as it's important for me to find out the views of my own caucus. I am not suggesting for one moment that I am here speaking for the whole Conservative caucus.

Mr. Roy: Well, I am hopeful we can get that for you.

Hon. Mr. McMurtry: Both you and I have expressed our personal views, as has Mrs. Campbell, and if our views reflect the views of our party caucuses, then I think it's in the interest of the future of the plan to give the Law Society some guidance in this respect.

Mr. Roy: We can get that for you shortly. Do you have any figures here indicating the billings of lawyers under the plan to give me

some idea of what—I don't know if this has been asked before—the top range of lawyers are billing under this plan, just to know where we are. OHIP keeps putting out figures in relation to certain specialties.

Hon. Mr. McMurtry: I could give you a sort of a run down, a profile, which indicates that there's only a relatively small number of lawyers who are billing the plan for a substantial amount. There are nine lawyers whose billings for the last fiscal year exceeded \$50,000; 15 lawyers whose billings were between \$45,000 and \$50,000; 15 lawyers between \$40,000 and \$45,000; 17 lawyers between \$35,000 and \$40,000; 24 lawyers between \$30,000 and \$35,000; 43 lawyers between \$25,000 and \$30,000; 56 lawyers between \$20,000 and \$25,000; 80 lawyers between \$15,000 and \$20,000; 219 lawyers between \$10,000 and \$15,000; 532 lawyers between \$5,000 and \$10,000; 1,641 lawyers between \$1,000 and \$5,000—and just to complete the list as there are only two more figures—555 lawyers between \$500 and \$1,000 and 1,039 lawyers under \$500. There are 4,245 participating solicitors.

Mr. Norton: What percentage is that of the Ontario bar?

Hon. Mr. McMurtry: About half.

Mr. Roy: Do you mean the total of these figures is about half of the total members of the bar?

Hon. Mr. McMurtry: Yes, the total number of lawyers participating represented almost 50 per cent of the bar, a little under 50.

Mr. Roy: Out of these nine here that billed \$50,000 or over, do you have any idea what we are talking about here as top billings in the plan?

Hon. Mr. McMurtry: We have that figure. I thought I saw a figure at one time but we don't have it here.

Mr. Roy: Do you recall it?

Hon. Mr. McMurtry: My recollection was that—and I am only going on recollection as I don't have a figure here—there was a top billing of around \$80,000.

Mr. Roy: Compared to the billings being cranked out on the medical side, on OHIP, this is really small. I shouldn't say small but it doesn't compare at all, if you look at the OHIP figures through its different specialties. I am surprised that for instance there's only nine billing \$50,000 and over. I think at one

time I tried to figure out when the plan was first enacted. Do you recall when the plan was first enacted? There was talk of lawyers ripping it off because they would bill \$50,000 and \$60,000 under the plan. I have tried to figure out on a time basis what that would work out to and you would have to crank out a lot of Legal Aid to bill \$50,000 and over. I am surprised frankly that—

Mr. Norton: A lot of divorces.

Mr. Roy: Well, I would think that most of those nine would be in the criminal field. Are you still limiting lawyers to 75 certificates?

Hon. Mr. McMurtry: Yes.

Mr. Roy: I would think that you would have to be doing this type of work in the criminal field because with divorces, obviously 75 certificates wouldn't give you anywhere close to \$50,000.

The point I just want to make and emphasize again is that those who figure lawyers are really making a bundle out of Legal Aid should get a look at those figures because obviously that is not the case. Of course the doctors would say: "Yes, but if we work within the plan, that's our total billings for the year whereas lawyers can work outside of the plan."

I just have a few more little comments to make about the system. Mr. Lawlor mentioned, and I had mentioned the other day, about limiting certificates of individuals and I think we will have to do it with some discretion in the Legal Aid director in special cases. I really think we will have to do it. You know, at one time, I used to have reservations about this. It was the old story that if you limit a certificate, let's say, for what I used to call the local hoods in any particular community, the fellows that you keep seeing in your office, the people that live a life of crime basically and anyone who has practised criminal law will keep seeing the same faces, is that if you don't give them a certificate the story was that they will go rob a bank, or do a B and E, or something, to pay their lawyer.

I am told that today, with inflation and everything else, they get their certificate and they go and rob the bank anyway and pull the jobs. I don't think it is going to be a factor. Those are the reservations I used to have about limiting certificates but I think there is a consensus, if you discuss with members of the profession, that there's an abuse that way. Very often you see individuals who have five and six and seven outstanding certificates going with more than one lawyer in fact. To me, that is clearly an abuse. I

really have no other comments about the plan except to emphasize again that I think one of the ways to cut costs and to follow the plan closer is to move more and more toward what we call block fees for cases. I know there should be some discretion left in the—I don't know what you call the officer who taxes your bill but what do we call the Legal Aid guy—

Hon. Mr. McMurtry: The accounts officer in Legal Aid.

Mr. Roy: Yes, the accounts officer should have some discretion and it has been my experience that they are pretty tight; they are following these things pretty closely. But if you work on the basis of block fees, for many cases that's a better way of controlling it. The other thing I would like to say—at least I get it from the profession—is that with inflation and everything else it's really tough to encourage lawyers to participate in the plan. For instance, those who want to make a career of criminal law really have to make I suppose a tacit decision that they are just going to have it tough to make ends meet to pay for the office overhead. Because if you are going to do criminal law, 80 per cent of your work is going to have to be Legal Aid. I suppose one of the ways of increasing the fees without getting too much objection from the community would be to reduce the contribution of lawyers. Instead of making it 25 per cent make it 15 or 20 per cent. That would be one way, I suppose. There is a consensus by and large that if you calculate in any urban area your overhead to run a law office as \$30 an hour, it gets to be very difficult for a lawyer to make it if he's being paid an average of \$35 an hour on Legal Aid.

Hon. Mr. McMurtry: Yes, I recognize that the tariff is modest, particularly when you have a 25 per cent reduction. My own personal view is that, while the 25 per cent reduction was built into the plan to represent the contribution of the members of the legal profession to the plan, the legal profession has received very little credit publicly for this, and it's regrettable.

Mr. Roy: That's right. One parting shot in this, that saddens me to some degree on the plan, is that—and I come back to my point—criminal law is a very honourable profession. I really think for a young person today there is very little incentive to get into that field. It's going to be tough, because he's going to be doing mostly Legal Aid. There are exceptions, but the only place that is an exception is Toronto, where you

have sufficient paying clients or large clients on whom you can catch up after having done Legal Aid. But one who wants to do only criminal law in the smaller cities is going to end up doing Legal Aid. Because of the financial constraints at the criminal bar basically, young lawyers are coming out with limited experience, and I'm sad to see that. When you look at the tradition of these honourable counsel, with great reputations who are doing a real service to the profession in the criminal field, I'm afraid you might not be seeing that in the future with the plan.

Hon. Mr. McMurtry: I think the point is a valid one. The irony is that the leaders of the defence bar in Ontario were all produced by voluntary service. The John Robinettes, the Arthur Martins, the Arthur Maloneys, etc. all built their careers on voluntary work. I don't think it's realistic today to expect that to happen. The effect of Legal Aid has certainly been to diffuse the defence bar to some extent, certainly in Metropolitan Toronto, and I can't speak with any real knowledge outside. Despite the fact that our leaders grew up with a voluntary plan, I don't mean by that to suggest we should try to turn back the clock. I just mean that observation for what little value it may have. It may be relevant to this extent—because there was a point in the back of my mind when I started to talk about it—that I'm concerned that if I get another \$10 million from the central agents, from my colleagues, next year, so be it, we can expand the service. There are a lot of people who probably aren't eligible for Legal Aid who are really crushed by an unexpected legal case, whether it's criminal or civil. I refer to the respectable, law-abiding average citizen who may own his own home with a couple of large mortgages, etc. Those people often don't qualify, whereas you see the recidivist with 15 or 20 certificates. One has to be concerned about whether that person should be receiving as large a portion of the Legal Aid resources in relation to the people that are not being served. It's really in that context that my concerns have been expressed about the recidivist. I come back to the point of supposing we do say that after a certain point an habitual offender loses his right to a Legal Aid certificate. One young lawyer who's very active in the Legal Aid plan, and a very good lawyer, at the defence bar, said to me a few months ago that in some cases the Legal Aid plan was subsidizing disorganized crime. He was expressing his

concerns about who are some of the principal beneficiaries.

[6:00]

I think you support the concept that at some point we say, "You lose your right to a Legal Aid certificate and the right to go out and have your pick of lawyers," theoretically. But if we do that, we as a profession recognize that although they lose the right to be served through the Legal Aid Plan, through the public purse as such, they still have a right to be defended, because we recognize as a very fundamental concept that no person should go into court unrepresented and certainly where the freedom of the subject is at stake.

So I come back to the concept that did produce a lot of top-flight lawyers. I still think that the legal profession, if we go that route, still will have to provide counsel for those people who have disintitled themselves to the Legal Aid Plan. You can only do that

in two ways: Either set up a limited public defender system or ask the Law Society to provide a panel of lawyers who will contribute their time, as in the old days, for free. This is one of the challenges, I think, that we have to meet and cope with.

I see, Mr. Chairman, I've brought us past the allotted hour.

Mr. Vice-Chairman: I take it that we are finished with this item. Is that correct? And that tomorrow we could go to item 2? I also take it that there are other items under this vote that want to be discussed and that the committee is not ready for a vote yet. Is that right?

Some hon. members: Yes.

Mr. Vice-Chairman: I was afraid of that. Okay.

Item 1 agreed to.

The committee adjourned at 6:03 p.m.

CONTENTS

Tuesday, November 2, 1976

Administrative services programme S-2550

 Programme administration S-2550

Adjournment S-2567

SPEAKERS IN THIS ISSUE

- Breaugh, M.; Vice-Chairman (Oshawa NDP)
- Campbell, M. (St. George L)
- Kennedy, R. D. (Mississauga South PC)
- Lawlor, P. D.; Chairman (Lakeshore NDP)
- McMurtry, Hon. R.; Attorney General (Eglinton PC)
- Norton, K. (Kingston and the Islands PC)
- Roy, A. J. (Ottawa East L)
- Ministry of the Attorney General officials taking part:
- Callaghan, F. W., Deputy Attorney General
- Campbell, A. G., Senior Crown Counsel, Policy Development Division



Government
Publications

Legislature of Ontario Debates

SUPPLY COMMITTEE—1

ESTIMATES, MINISTRY OF
NATURAL RESOURCES

OFFICIAL REPORT — DAILY EDITION

Third Session of the 30th Parliament

Tuesday, November 2, 1976

Evening Session

Speaker: Honourable Russell Daniel Rowe

Clerk: Roderick Lewis, QC

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CONTENTS

A list of the speakers taking part in the debates in this issue of Hansard appears, in alphabetical order, at the back of this issue.

Daily contents of proceedings also appears at the back of this issue. Reference to a cumulative index of previous issues can be obtained by calling the Hansard Reporting Service indexing staff. (Phone 965-2159)

LEGISLATURE OF ONTARIO

SUPPLY COMMITTEE

TUESDAY, NOVEMBER 2, 1976

The committee resumed at 8:10 p.m.

ESTIMATES, MINISTRY OF NATURAL RESOURCES (continued)

On vote 2303, outdoor recreation programme; item 2, fish and wildlife:

Mr. Chairman: I understand Mr. Smith is the next speaker, followed by Mr. Stokes.

Mr. R. S. Smith: I'll try to be as quick and as short as I can, but it's a very important subject to my area. I feel a very significant change in ministry policy has taken place over the past week or 10 days that has a direct effect on many people in my area.

I'd just like to go back a bit and indicate that about four years ago the ministry, through their regional and their local office, with the backing of statistics from their biologist indicated that the pickerel fishing in Lake Nipissing was far below what it should be. Most of us knew that for some years but it took them that length of time to come to that position. At that time, I appealed to the minister directly—and he'll remember that—to meet with the people in the area. He did come and meet with them, and there was a ministerial committee set up by his appointment that looked at the whole area of the fishing in Lake Nipissing, particularly pickerel fishing, and made a series of recommendations which were accepted by the local ministry staff and by the ministry itself.

The implementation of those recommendations was left to the minister and his staff. During the period of the meetings that took place of that committee, all of the interested groups in the area were represented but it was predominantly made up of those who had the most direct pecuniary interest, the people who were involved in the fishing industry insofar as the operation of camps and so on were concerned. A unanimous report was signed by each member of that committee which came to the ministry, and that report was based mainly on the input of the

biologists and the administrative staff of the Ministry of Natural Resources. I was one of those who signed that report and who has supported it since that time.

Over the years we've had some difficulty in the implementation of that report, but we did make some progress along the way in that we shortened the season by almost a week to start with. Then last year when it was to be shortened to open on June 1, there was an agreement made, I would suppose, between the minister, myself and other interested people, including the member for Parry Sound (Mr. Maack) who was involved in it, that instead of moving the season to June 1 we would cut from six to four the number of pickerel that people were able to take in one day. This was agreed to and became part of the regulation last year, as an interim measure in lieu of changing the season to June 1, which would have been particularly difficult for the tourist operators in the area.

[8:15]

This year, however, a meeting was held between some people—not all those who are interested in the lake in the area by any means—and an agreement was made between the ministry and the people concerned which in fact refutes the report that was made about two-and-a-half years ago, refutes the ministerial input into that report, insofar as the biologists and the administrative staff of Natural Resources is concerned. The Ministry of Natural Resources has agreed to that report. It changes the date for a three-year period so that the opening comes on the Monday of the long weekend in each and every one of the next successive three years. The number of fish to be taken by each fisherman is increased from four to six.

In my opinion, the biologists and the administration within the ministry have now taken a direct opposite position to what they took three to four years ago. And I find it most difficult to understand, let alone to accept, so I don't accept it and I don't understand it. I've yet to receive an explanation for the direct change in opinion of biologists within the department, in whom I had faith,

and administration within the department, in whom I had faith, and in whom many other people in that area had faith. Obviously, there is something going on. Either I don't understand it or they're trying to pull wool over my eyes and the eyes of the people in my area.

We're dealing here with something that's much more significant than a few fish. We're dealing with the well-being of the tourist industry in my area and with the productivity of a lake in Ontario that perhaps has been one of the most productive, and we hoped would be brought back to where it would be one of the most productive in the near future. Obviously the ministry and its people have decided that they would do a 100 per cent about-face and change their position. It's well within their prerogative to do that. At the same time when they do that they owe an explanation to all those people in the area who are going to be damaged by it in the long run, in the next 10 to 20 years. To those people who took part in that committee and who were completely ignored, after having faith in those same people and who were not told of or even asked about any changes in opinion made by the ministry, let alone the fact that most of their opinions in the report were based on so-called ministerial facts.

I say, through you, Mr. Chairman, to the minister, that either your people were wrong then and were misleading us or they're wrong now and they're misleading us. I make those charges very seriously because I think they've just come to the point where they cannot be believed.

In that light I would say to you that I choose now, as the member for that area, to accept the principle that there's really nothing wrong with that lake, and it's been a hoax for four or five years. I say to you that you put back the same regulations that applied four years ago, and we forget about the whole thing. We forget about your biologists; we forget about your administration. Just get rid of them and let us alone to look after our own lake. Obviously your people are more interested in playing games than they are in looking after the well-being of that lake and the people in that area.

I may sound a little bit disturbed about this matter—and I will tell you I am—because I feel it is a question of principle. Either they were right four years ago or they are right now. They can't have it both ways and your ministry can't have it both ways. Either the tourist operators in that area have lost business over the last four years for nothing, for no reason whatsoever, and there has been

restrictions put on that lake that should never have been put on it, or they are right now. They were right then and the restrictions should remain.

Since the people in your ministry—I am not saying you personally—have chosen to make their choice for an about-face, I go fully with that. I say to you put it back where it was, let us alone, leave us alone, to operate our own lake without the interference of a bunch of people who do not have any obligations at all and do not foresee what they are really doing. I ask you for your comments.

Hon. Mr. Bernier: I certainly have to agree with what the hon. member has said. I think it is fair to say that last year we had some very serious in-depth discussions concerning the future of Lake Nipissing, the effects on the tourist industry, the changes that were contemplated and were suggested by the advisory committee, and the many recommendations they suggested. We reviewed them all and felt that there had to be some action taken.

We are very cognizant of the economic effects any change would make in the North Bay area. We were extremely sensitive not only to the economic aspects but to the biological aspects of that particular lake. I think it is fair to say—and I say it publicly—that I personally discussed the issue with the member for Nipissing. I got his reaction, as we did from the tourist industry and from the sport industry, from those sportsmen who were concerned about the fishing quality and the future of Lake Nipissing. I have to admit—and I say it publicly—that I was under the impression that the new changes that have been suggested for this year had been thoroughly discussed by my staff with all groups, expecting that they were the similar groups that we discussed it with last year, including yourself.

I new find out that this is not correct. For some unknown reason, the sportsmen and yourself were not consulted. I do feel, and I strongly feel, that you have an input. I think, as you correctly pointed out to me in our private discussions, there is one end of your particular area that had total say. I am prepared to hold up any decision on this particular matter until I have had an opportunity to sit down with you, and have my staff sit down with you and to return to the North Bay area to meet with all the groups involved. Either we are going to manage the resources in that lake or we are not.

Mr. R. S. Smith: That's right.

Hon. Mr. Bernier: I accept your arguments as strongly as I can about playing around every year with the limits and with the opening day. One has to know Lake Nipissing to know the interest of sports fishermen as it relates to pickerel fishing in that particular lake. I am just not going to stand for this kind of playing around with the seasons and with the limits, at the whim of a few people. I have to say to you as strongly as I can that, effective tomorrow morning, our staff will go back to the drawing board. Either they are biologists, and they are going to manage that resource, or we are going to tell the people why. I just make that commitment to you.

Mr. R. S. Smith: I accept that commitment that the resource will be managed, but from my experience up to this point I don't know who it is going to be managed by. I feel there has to be some real changes made in those people who are going to be in a position to make decisions because obviously they have come to the point where they can't make a decision and they bend because of the pressures of a few people here and a few people there and we are all over the place.

You appointed a committee to look at the lake and to give you recommendations. If you don't agree with the recommendations of that committee I don't see why the biologists don't say so and your administration doesn't just say so. Those people were all good people. They put in a lot of time, and a lot of hours for the betterment of what they thought was the community and the lake. I believe they have been ignored, done in and just completely—I was going to use a word but I won't because it's far too strong. I believe in effect those people have been used and I really feel quite strongly about the fact that the ordinary individual who looks at that lake is being short-changed.

Each and every one of the people in this province, as you well know, has the same rights to that lake as anyone else. But the people in the specific area have a right to that lake and have a right to good fishing in that lake. I believe, in fact the biologists have now come to the conclusion there is nothing the matter with the lake, we should forget about the whole thing. Or if they wish to change their mind for a second time, perhaps we will look at it in a different light. As of right now, I take their second decision as their final decision. I say to you, as far as I am concerned, let's go back to where we were four years ago and leave people alone.

Hon. Mr. Bernier: We will be back at the drawing boards.

Mr. Stokes: It's most unfortunate that because of the pressures of time that we aren't able to spend much more time discussing the fish and wildlife vote, since we are talking about close to \$17 million, and that is something everybody in the province should be concerned about. Following along with what the member for Nipissing has said, the Lake Nipissing issue is just the tip of the iceberg. I think every member of this committee could express the same kind of apprehensions they have about the way in which our fish and wildlife resources are being managed across the province.

It is heartening to notice that you are spending an additional \$400,000 on wildlife management. I hope some of those dollars are going to provide better surveillance and better enforcement of our fish and game laws. For the last three or four years around here now, we have been promised by the minister he would address himself personally to this problem and come up with the required dollars to employ more conservation officers so that we could more adequately manage the resources that are so important to the economy and to the idle time, not only of our own residents but those who come to visit us and have such a profound effect on, I suppose, the third largest industry in the north, tourism.

I just hope that when the minister replies he will indicate the number of new conservation officers that he has employed. I'm not referring particularly to park attendants but conservation officers who are charged with the responsibility of enforcing the fish and game laws. Notwithstanding the fact that there are more convictions for violations, serious violations still occur. You and I know what happens if the limit is six of one species or 10 of another and people are found with literally dozens of those, so far in excess that those resources can't withstand that kind of pressure. I hope a significant amount of the increase will go toward providing more conservation officers and giving a backup and assistance to those who are already in the field doing yeoman service.

[8:30]

I was gratified on reading quite a good deal about forestry during the past summer to find out that we seem to have some of your fish and wildlife personnel on our side. At least they are taking opportunities to speak publicly about the profound effect that a proper forest management policy has on wild-

life habitat and on how important it is that one complement the other, rather than having fish and wildlife people coming in after the forestry resources are all gone and spending precious dollars on wildlife habitat after the fact rather than as an overall forest management policy that complements what your people in the fish and wildlife branch are attempting to do. As I talk to people and as I read what is being said by people in your ministry, I sense, that they too are beginning to have some input into forest management as it affects wildlife habitat. That is heartening.

I would like to express some apprehensions about the kind of biological data you're collecting and the surveys that are being done. I'm talking about the lake surveys with regard to the kind of plantings you should be putting in certain lakes and the biology and the marine life in certain lakes that will engender greater propagation of certain species having regard for the kind of lakes and the kind of environment. On the basis of what I've been able to see, I don't think they've got a handle on it by a long shot. I can show you certain lakes where they've had biological surveys for six years and they aren't any closer to coming to a solution as to what the problem is.

I refer specifically to Lake Nipigon where the fish stocks have been dwindling for several years now and the only concrete action that's been taken by your biologist is to manipulate the season for a particular species, white fish, since that's the major species that's been caught there now as opposed to the more prime species such as the lake trout, the speckled trout and the pickerel. As I talked to your biologists, I feel they certainly haven't come to grips with the problem. I don't think they're any closer to the truth now than they were when they started the survey six years ago. The people in the area depend so much on it, whether it's commercial fishing or whether it's sports fishing, not only by individuals but as it affects the tourist industry that I alluded to earlier. I think we're not getting the best bang for our buck, if I can put it that way, in the dollars we're spending for fish and wildlife management.

The same thing would hold true for moose management. We're always told that there are annual surveys done every winter. We're being told by your biologists that there are just about as many moose as there ever were in the province of Ontario and the populations are standing up quite nicely. They say that it's just that people are not looking for them in the right places, that the moose are going farther back and all is well with the

world. The people who conduct the surveys are having some second thoughts about the validity of their findings.

The people who are most concerned, the individual sportsmen themselves, will traipse through the bush for days on end and are very fortunate if they even see one, let alone get a clear shot at one. I noticed that NOTOA is having some grave reservations about our ability to harvest our moose populations with the same intensity that we have in the past simply because they know that the stocks are dwindling. It's not because they're farther back. As you know, our tourist camp operators, particularly those who orient their business toward the fall hunt, have the air carriers flying around getting a good idea of where the moose are likely to be for the fall hunt. I know they talked to your people.

They are really concerned. It's a question of time as to when it's going to be, when we have to come to the decision we're going to have to cut back either on the number of hunters or close certain areas to allow the moose populations to build up again. I know in northeastern Ontario that your ministry is particularly concerned with the low success ratio most of your hunters are having in that particular area. I do hope when you send your people out this year that they'll get a real good look at the moose population. Then I think you'll come to the conclusion a good many of them who are close to the scene will find out that they are dwindling, and you are going to have to address yourself to that problem.

It may be that you'll have to start with cutting down on the number of non-resident licences that you issue. I think it is common knowledge that the hunter who comes from other jurisdictions is much more serious than the Canadian hunter. He's not just somebody who is going out for a couple of hours or somebody that is going out for a Saturday's hunt. He comes with all of the sophisticated paraphernalia and brings it all with him. He's out there until he gets his moose and he's much more serious about it and his chances of success are much greater than the resident hunter who just goes out for a short period of time.

It might well be that you are going to have to start taking a serious look about the number of non-resident licences that you issue. After all, this is yet another resource that belongs to the people in the province and I think you must look after our needs first. That's not going to sit too well with

the tourist camp operator, because we are talking about his bread and butter.

Mr. Haggerty: Pass it around.

Mr. Stokes: I have one of those too.

Hon. Mr. Bernier: I don't know where it came from. It wasn't in my pocket.

Mr. Stokes: I've even got a can of moose milk that is supposed to cure all ills.

Mr. Haggerty: Pass it around.

Mr. Stokes: But I am serious about this. I think these are the kinds of things your fish and wildlife branch are going to have to address themselves to, and the sooner the better.

The final thing I would like to draw to your attention is the mercury problem. This is not only from industrial pollution and man's intervention but as your people go out through the province surveying more lakes you find out that the mercury content in fish is much higher in areas where it's due to natural leachings from the rocks and the soil in the area. While you are doing monitoring, you're going to have to step it up because we have to find those lakes that are unpolluted and concentrate on those for restocking of the species that seem to be able to survive in that particular marine environment.

You're not out of the woods yet with regard to mercury. Those areas that are contaminated, for whatever reason, are going to be with you for a good long while. You have to step up your activity in this regard, so that you can restock those areas. You know the kind of pressures you yourself are subjected to, when we find yet another lake contaminated and where we find people are staying away from a certain area in droves.

You and I shared a letter here just recently in which somebody mentions that the English and Wabigoon river system is polluted. Of course **English River is in my** riding and I don't know of any mercury pollution at English River. I know of pollution in the English River but not at English River. It has a very profound effect on the travelling patterns and on non-residents who are not familiar with the area, if they get the notion that it is all of the English River, all of the Wabigoon chain and all of Wabigoon Lake. They just naturally assume that all of northwestern Ontario is polluted, which isn't the case at all.

The ministry generally, but particularly the fish and wildlife branch, is going to

have to do a better selling job, along with people like the minister, myself and other members who represent that riding. Northern Ontario tourist operators are going to have to do a better selling job. While the mercury problem is serious, and has had a very profound effect, not only on the native people in that area but the tourist operators, and could ultimately have a serious effect in the long run on people who are eating fish in that area, I think we have to make it known to the people in southern Ontario and the people coming from other jurisdictions that we haven't got an entire wasteland in the north as a result of mercury pollution.

We don't downgrade it and it is serious, but to be able to define specifically where the areas are and hope they won't eat the fish in large quantities. We have to be able to say to them that a good deal of northwestern Ontario is still mercury-free. I'm not saying that you shouldn't do whatever you can be doing in order to right the wrongs of the past, but by the same token I don't think we should lose sight of the fact that there is a good resource up there that we can exploit in an orderly fashion, if we do it properly. We have a collective responsibility to do that but the primary responsibility is with this ministry to see that any man-made pollution ceases forthwith and in concert with other ministries to see what we can do to clean up the situation. It is not a easy task but it is one you have to address yourselves to and, hopefully, in the not too distant future we'll be able to say we took the action and we were able to clean up the mess and, as a result of it, everybody in northwestern Ontario can benefit.

As I say, I'm sorry we didn't have more time to discuss this vote in more detail, but because of the pressures of time that's all we can say about it. If the minister will care to respond to those brief comments I've attempted to make, at least it will give the impression that we are generally interested in fish and wildlife management. Perhaps on another occasion in the not too distant future we'll be able to go into it in much more detail.

Hon. Mr. Bernier: To respond to those remarks of the member for Lake Nipigon, I appreciate his interest and concern on both the fish and moose and the remarks he's made with respect to mercury in our waters in northwestern Ontario and northern Ontario and indeed in the province.

In regard to fixed surveys and work in providing the public with the information about fishing, I think it's fair to say we in the ministry have been doing a number of lake

surveys. I think we're providing the fishermen today with a greater amount of information as to where to fish and the type of fish he can expect to catch. In fact, with those fishing maps that we're producing on many lakes in northern Ontario, they even know the depth of the lake itself. They know the conditions and where the reefs are. It's a very valuable service. Maybe we're getting too sophisticated and maybe we're making it too easy for the fishermen to move around in some of our lakes.

[8:45]

Just last summer we completed the lake survey of Lac Seul in four separate parts. You can move around that lake, which is 90 miles long, look at your map, orient yourself and find out that there's 30, 40, 50 or 60 feet of water there. Basically you can know what type of fish is there. It makes it that much easier really, for the fishermen to catch fish. It certainly helps the commercial fishermen, the ones that are operating. I think we're providing a greater service today than we have in the past. Sometimes I wonder if we should be providing that service. It's making it too easy for a fisherman like myself. The fishermen appreciate it. Our demands and our requests for fishing maps and lake surveys are increasing on a regular basis. We have no intentions of reducing at the present time.

With regard to conservation officers, as the member well knows—

Mr. Stokes: I just want to remind the minister that while you may be making it easier to provide access and better opportunity for catching fish in your own lake, as you choose to call it, I can tell you there's a lake in my area that we chose to say it should be undeveloped and there shouldn't be any road access to it. We had one where you can drive within a half a mile of the lake and if you had the intestinal fortitude to put the boat on your shoulders, you could go in and you were always guaranteed an excellent catch. That's Onaman Lake.

Hon. Mr. Bernier: Oh yes, near Geraldton.

Mr. Stokes: Yes. There are three fly-in operators in there with outpost camps and they became so disturbed because the local fishermen were able to gain access to the lake by toting their boats for half a mile. Your ministry came along and said it's much too easy for the average fisherman from Geraldton, Jellicoe and Beardmore to get in there so they bulldozed a big ditch across the road and now they have to carry the boat for a mile. They said the reason they did it was

they didn't want to make it too easy for them. I think the pressure that was on you was by the tourist operators, who were coming down, actually, with aircraft and buzzing these resident fishermen and saying: "I hope you'll get the message that this is our lake, not yours." That doesn't make for the best relations. While you may be making it too easy in Lac Seul, you're sure not making it easier for my constituents in Onaman Lake. Yours is an isolated situation.

Hon. Mr. Bernier: I accept that. To speak briefly on the enforcement aspect of it, as the member well knows, we've added to our enforcement staff last year about 25 conservation officers. This year we're going through a formal training programme for about 112 officers within the law enforcement branch, and this should be completed by mid-December this year.

What I want to point out to you and to the members of the committee, is that we've taken on a new individual, a specialist in enforcement. He is Mr. Ralf Aldrich, a former staff sergeant from the RCMP. He's with us today. Mr. Aldrich, maybe you'd stand up and identify yourself. Mr. Aldrich has been working very closely with the conservation authorities in the Ministry of Natural Resources. Maybe I'll call on him before I'm finished to give you an outline of the type of work he's doing to try to improve our service, to try to improve our officer-user contact. If I recall correctly, over the past there was some criticism as to the amount of paperwork our boys were doing with respect to the actual amount of law enforcement. I think the member for Lake Nipigon brought this to my attention. Those comments don't go by unnoticed. We take notice of them and we look into those comments, and this is a result of it.

I'll ask Mr. Aldrich to come back in a few moments, but before I do that I want to talk briefly about moose. I think I talk from a position of authority because I do become actively involved in moose hunting myself. I become and I make myself very knowledgeable of what's going on in this particular resource. I regret I didn't have this information to the hon. members' hands before this but I'll have some copies made. I will make sure you get a copy of it, because some of the comments Mr. Stokes made just don't hold water. I can tell you that.

Mr. Stokes: Don't convince me. Go out and convince the hunters. I never hunted for moose in my life.

Hon. Mr. Bernier: I have, and I just want to put on the record the things that have

happened in 1974, 1975 and 1976. I think they are very startling and this is part of our overall thrust.

Mr. Ferrier: Did you get yourself just the one moose.

Hon. Mr. Bernier: That's right. In fact, I didn't get one this year but my son did. I never saw a hair but he was successful and I will be cutting that meat up this weekend when I go home, if I make it.

To give you some indication as to where we are going, you will recall a couple of years ago we wanted to reduce the harvest. That was the overall thrust. That was a desire within the ministry among the biologists. You will recall we engaged four regional biologists for northern Ontario really to delve into management of this particular resource which is unique. Maybe Quebec and other provinces can take exception to my remarks but we have the moose hunting paradise in Canada right here in northern Ontario. We intend to maintain that and we intend to make sure that the recreational opportunity is provided and also that the return, the economic return, is there and still maintains a viable herd.

I just want to put on the record some of the statistics I have before me. There may be some questions after, but I think the thrust of our efforts is rewarding. As an example, the provincial report for 1974-75, on a province-wide basis, shows that the number of moose harvested was reduced by 17.3 per cent and hunter numbers were down by 9.4 per cent.

Mr. Stokes: Does harvested mean killed?

Hon. Mr. Bernier: Yes. Hunter success declined by only 1.3 per cent, so that would indicate our herd is maintaining itself. For residents only, on a province-wide basis, for 1974-75 moose harvest was reduced by seven per cent; hunters declined by 1.4 per cent; and hunter success dropped only by 0.8 per cent. Here is an interesting statistic—and I would point this out to the member for Lake Nipigon—on a province-wide basis for non-residents, moose harvest was reduced by 51.8 per cent; hunter numbers decreased by 48.7 per cent and hunter success dropped only by 1.2 per cent.

Mr. Stokes: What does that prove?

Hon. Mr. Bernier: It proves dramatically that we have fewer non-resident hunters. We have a 48 per cent reduction, yet our hunter success only dropped by 1.2 per cent. So our herd is being maintained. There is no ques-

tion about that at all. By manipulating the length and timing of the 1975 season—

Mr. Stokes: The logic of it escapes me.

Hon. Mr. Bernier: What do you mean?

Mr. Stokes: Your province-wide success was 17.3 per cent, your residents' success was reduced by seven per cent, and the moose harvest for non-residents was decreased by 51 per cent? I have a right to assume that they just weren't there.

Mr. Haggerty: The minister found that out this year; he didn't get one.

Hon. Mr. Bernier: No. The number of hunters decreased by 48.7 per cent.

Mr. Ferrier: There were fewer moose being harvested.

Hon. Mr. Bernier: There were fewer non-resident moose hunters, and this was what the member was referring to. He wanted us to reduce the number of non-resident hunters. We reduced the number of non-resident hunters by 48 per cent but, as he correctly pointed out, they are becoming more skilled. They come up and hunt five or six days and really work at it. They are intensive hunters, yet their success ratio only dropped by 1.2 per cent. So the harvest was still there and the herd was still there.

Just to go on: By manipulating the length and the timing of the 1975 season and reducing the size of the hunting zones, we expect to reduce the annual harvest by 10 per cent. The results show that the harvest was reduced by 17.3 per cent. Our goal was only a 10 per cent reduction yet we had 17.3. Certainly this reflects a true decrease in the harvest and not an overall decline in the resource base. I want to make that very clear.

The data show that the harvest was moderate principally through the reduction in the non-resident participation, and I think if there is one direction we wanted to go, it was to reduce the number of non-resident hunters. We did this basically by increasing the non-resident hunting fee from \$125 to \$175 plus a \$15 trophy fee. That's had its effect and I think we're pleased with it.

Now, getting back to 1976, the year just completed, on a province-wide basis, moose harvest is about the same as 1975. Hunter numbers were slightly higher than in 1975, and hunter success ratio was about the same as 1975. If we go back in history, we can see that hunter success ratio being maintained. I have confidence in my staff—I have

confidence in the statistics—that, with tightening up and with certain regulations coming into force, we can maintain a strong and viable moose herd in the province of Ontario. I tell you that that is the goal of this particular government. In fact, the cabinet has approved our direction in this way.

On a province-wide basis, moose harvest is marginally up from 1975; hunter numbers are slightly higher than in 1975 and hunter success is about the same as in 1975. Here again, on a non-resident basis for the province, the moose harvest is lower than in 1975. Hunter numbers were greater than in 1975, but hunter success was slightly lower than in 1975.

The resident hunters had good success in the first week of the hunt, I think it's fair to say, and I was certainly involved. The weather was favourable. The moose were still in rut and I can verify that myself. However, the second and the third weeks in October saw poor weather, lower temperatures and the success declined.

The dry conditions and the low water levels in northern Ontario tended to favour, of course, access by residents and anyone who does any moose hunting certainly will accept that statement.

We have a new harvest strategy of opening seasons in mid-week but, to members who may not be aware of this, there was no change in the moose seasons this year. We opened them up on basically the same days as last year, related to the calendar. Last year they opened up on a Saturday, which meant that the hunters were out for a week-end. This year we kept the same date but that date was on a Monday; there was general public acceptance of doing that.

Our purpose was to reduce the harvest but to provide the recreational opportunities. I am very strong about that—we must maintain the recreational opportunities but we must also of course reduce the harvest and keep our herd intact, strong and viable. I'm particularly pleased with the results, in just two years, of the emphasis we've placed on greater management of our moose herds in the province of Ontario.

I leave those figures for the record. I would hope that the members would examine them after estimates are over and see where we're going with regard to moose management in this particular province.

I want to say a few words on the mercury issue. I appreciate the member from Nipigon's remarks. I appreciate his sincerity—

Mr. Stokes: Lake Nipigon.

Hon. Mr. Bernier: Lake Nipigon? Lake Nipigon, I'm sorry. I appreciate his concern and his sincerity with regard to this situation. The broadness, the broad-brush approach by the media as it relates to the problem—

Mr. Bain: Surely you're not going to come down—

Hon. Mr. Bernier: I'm certainly very sympathetic. The member referred to it; he talked about the English River, which goes for hundreds and hundreds of miles—

[9:00]

Mr. Bain: The media didn't put it in the river.

Hon. Mr. Bernier: No, but the approach to the problem in the print medium relates to the English River system and it goes far beyond what the problem really is. I want to point out and I want to make clear for the record that no one, at this point in time, has suffered from mercury poisoning in the province of Ontario or even in Canada.

M. Bain: That's open to dispute.

Hon. Mr. Bernier: That's the record and that's the comment of the Minister of Health (Mr. F. S. Miller).

Mr. Bain: You accuse the media of distorting the record. You certainly aren't setting it straight.

Hon. Mr. Bernier: I'm not. I am just saying that's the situation at this point in time; I am not saying maybe somewhere down the road something might happen. I am not naive enough not to accept that part.

Mr. Bain: Suffering in what way?

Hon. Mr. Bernier: No definitive—

Mr. Bain: Medical evidence?

Hon. Mr. Bernier: —medical—

Mr. Bain: But what about socially?

Hon. Mr. Bernier: Socially, there is no question. There is no question socially—

Mr. Bain: That wasn't in your statement.

Hon. Mr. Bernier: I'm talking medically. Medically there is no—

Mr. Bain: It's like the Compensation Board, by the time all the doctors agree the people are dead.

Hon. Mr. Bernier: The facts are there for you to read. We can't build anything in to them, they're there; they're factual and we have to accept them as they are, with today's knowledge and with today's findings.

Mr. Bain: All the doctors argue about it, the level of mercury in people's tissue; they dispute what is the dangerous threshold level. As you know yourself, medical opinion changes—

Hon. Mr. Bernier: That's true.

Mr. Bain: The WCB is an example of how medical opinion changes. Just because the doctors don't agree it doesn't mean that there is not a very dangerous problem there.

Hon. Mr. Bernier: I have to rely on the medical experts who give me advice. I accept their advice and their knowledge—

Mr. Bain: Medical experts from Japan say that the problem is the same there as it is in Japan.

Hon. Mr. Bernier: We are recommending an epidemiological study and I would hope we would get it on as quickly as possible to verify or to balance any problem, if it does exist.

I want to assure the member for Lake Nipigon that we will continue our monitoring of the lakes in this province of Ontario, be they in southern Ontario or northern Ontario. Of course, this information will be made available in abundance, to make the public aware of the concerns we have and, of course, the risks that may be prevalent in eating large quantities of fish from these bodies of water.

Mr. Chairman, that winds up my remarks in response to the member for Lake Nipigon.

Mr. Mancini: I see that the fish and wild-life branch of the Ministry of Natural Resources is of hefty size and spends quite a great deal of money, well over \$16 million.

First of all, I would like to take this opportunity to thank the minister and the ministry for their support of the Jack Miner Bird Sanctuary which is a very famous sanctuary situated in the heart of the riding of Essex South which I represent. However, I think I will end my complimentary remarks to the minister and the ministry there because when we get into the fishing part of the ministry and how they have handled the problem in my riding I would like to say, **Mr. Minister,** I feel it's disgusting.

Hon. Mr. Bernier: I can't accept that.

Mr. Mancini: That's fine.

Hon. Mr. Bernier: I can't accept that at all.

Mr. Mancini: I feel it's disgusting.

Hon. Mr. Bernier: That's an irresponsible statement.

Mr. Mancini: No. I don't think so, **Mr. Minister.**

Hon. Mr. Bernier: Totally irresponsible.

Mr. Mancini: No, I don't think it's irresponsible—

Hon. Mr. Bernier: Political.

Mr. Mancini: No, it's not political either, **Mr. Minister.** When I have finished my remarks you can judge for yourself and other people can judge for themselves and make up their own minds. However, I would just like to start off—

Mr. Bain: The minister's never political, of course.

Hon. Mr. Bernier: Never.

Mr. Mancini: On this problem we have had in my riding, **Mr. Minister,** I have approached you on a great many occasions in the Legislature and I have talked to you about it. For a while I thought you were genuinely concerned and that you were going to work through the elected representative and together we could find maybe not all the solutions to this problem that we have but we could probably make a genuine effort to ease some of the very severe problems that the fishermen are facing. I recall last fall, after I was elected, one of the first things I did here, **Mr. Minister,** was to meet with your Assistant Deputy Minister in southern Ontario, **Mr. Foster,** and another civil servant and we discussed at great length in my office one day the problems of the area, and some of the things that could have been done and maybe should have been done and maybe will be done. So I was on top of the situation right from the beginning. As I said before, I brought this to your attention on the floor of the Legislature and in personal conversations and I thought that we were going to work together.

As time went on I felt that you were moving too slowly in this regard. We got into writing letters back and forth to each other and by then the spring was over. In the early spring I presented to you and your

ministry a brief from the fishermen and the fishing people of my area and I would like to quote from it. The reason I want to quote this brief is just to show you that we had given you something to work with. We had given you something to work with. You certainly did not need the Minister without Portfolio, the Hon. Lorne Henderson, to give you problems to work with. We had given you specific—

Hon. Mr. Bernier: Now you see who is getting political.

Mr. Mancini: We had given you specific things to work with and you chose not to work with these items but you chose to work with the Minister without Portfolio.

Mr. Laughren: Better he is doing that than flooding northwestern Ontario.

Mr. Mancini: Sure. It says here:

"If the problem as it now has developed had been recognized and effective measures taken three or four years ago, the Essex and Kent county fishermen could have been compensated along with the industry on Lake St. Clair. Because Essex and Kent county fishermen were not compensated earlier this does not mean that under these circumstances it should not be considered now.

"Compensation to the licence-holder should be considered based on the average reported catch for the last five years. This information is available through the Ministry of Natural Resources. Owners, captains and crews should share on the same percentage basis they have been paid over the same five year period. This payment amount could be calculated and paid on a monthly basis after the 1976 monthly reports have been received by the department.

"It is also recommended that a buy-back programme be introduced to reduce 50 per cent of the boats now gill netting in Lake Erie. These operations should be purchased as they are voluntarily placed for sale. The price should be based on the appraised value of the vessel and gear plus a percentage of the reported value of the catch average over the last five years. The buy-back should include the licence, the vessel, the nets and all components used in fishing.

"If the four"—I have mentioned only three—mentioned recommendations could be considered we, as an association, feel the industry could be managed on a fair and viable basis for the future."

These were recommendations that were considered and drawn up by the fishermen themselves and we got no replies except a

thank-you from you in letters saying they were good suggestions and that they would be considered. Yet we have to read in the paper that the Minister without Portfolio and others are giving you suggestions and you are dealing with them on a personal basis without consulting the elected representative who has contacted people in your ministry from his earliest days in office, and that I think is disgusting, Mr. Minister.

You did come down into the riding and you did meet with the commercial fishermen and we were pleased that you did and I thank you for coming down. I think the fishermen were very pleased to meet with the minister, but to ask the elected representative not to be there is surely not the proper thing for a minister to do.

Mr. Bain: They weren't thinking of the best interests of your people in your riding, they were thinking of the next Tory candidate in that riding.

Mr. Ferrier: Did Margaret Birch go down too?

Mr. Mancini: Mr. Minister, I would just like to say that's one of the reasons why I called in the Ombudsman on this particular situation. He was called in in September and his people are going to make a report. I think their report is going to show that the fishermen along the southern shore of Essex county have been treated unfairly by your ministry. I would just like to put it on the record that even though at first I thought you were going to deal with the problem I have come to the conclusion that you are just trying to deal with the political situation and not the problem of the Lake Erie fishermen I'll just stop for a while and get your response on that.

Hon. Mr. Bernier: If we're going back into history, I suppose one could look at the Mancini election manifesto as it related to the commercial fishermen of Lake Erie, in which great promises were made and great things were going to be done.

Mr. Mancini: State the promises, Mr. Minister.

Hon. Mr. Bernier: I think when the member arrived here he faced reality and found out that he had to work with other people and there were greater things involved. There was a greater concern by a ministry that was interested in the long-term effects of the management of that resource and the long-term interests of his people

I think that he, with all due respect, should be pleased that the Minister without Portfolio (Mr. Henderson) should take an interest and express a concern on behalf of his constituents for the well-being of his people.

Mr. Mancini: Without letting me—excuse me for just a moment—

Hon. Mr. Bernier: I didn't interrupt you. Why do you interrupt me? Let me speak.

Mr. Mancini: You tried to interrupt.

Hon. Mr. Bernier: That particular member of the Ontario Legislature has been here for a number of years, has a great deal of experience and knowledge—

Mr. Laughren: Has no job.

Hon. Mr. Bernier: —about the problems of southwestern Ontario related to the farming community, tile drainage, you name it. He is an expert.

Mr. Bain: Save that for Lorne's testimonial in Petrolia when he retires.

Hon. Mr. Bernier: I think it would be negligent on my part if I didn't respect his contribution—

Mr. Laughren: Say it without a smile too.

Mr. Ferrier: He even went up to Dryden with the land drainage committee to help out your farmers

Hon. Mr. Bernier: —his concern and his input into a problem related to that particular area. As to why I accepted it in the past, I can say right now and I want the record to show that when that member speaks to me about a problem in southwestern Ontario I will listen to him because I know he is a man of ability, he is a man of concern, he is a man of sincerity, a man of the people.

Interjections.

Hon. Mr. Bernier: I defy anybody in this committee to go against those comments.

Mr. Mancini: We will.

Hon. Mr. Bernier: And I don't have to defend it in that sense.

Interjections.

Mr. Chairman: Order, please.

Hon. Mr. Bernier: I accept and I welcome the contribution that he made in this par-

ticular case. I know as a young member and new to the Legislature his—

Mr. Mancini: You are being patronizing, Leo.

Hon. Mr. Bernier: —feathers were ruffled.

Mr. Mancini: My feathers were not ruffled.

Hon. Mr. Bernier: Because a man of experience had to come and—

Mr. Bain: He is just working hard for his constituents and you should play fair with him, any member of any party.

Hon. Mr. Bernier: But don't condemn a minister of the Crown for trying to help those people.

Mr. Mancini: I did not condemn him.

Hon. Mr. Bernier: No way. I just won't accept that. I just won't accept that. Mr. Henderson did it in sincerity.

Mr. Bain: Sincerely trying to mend his political fences.

[9:15]

Hon. Mr. Bernier: I did receive an invitation to go there, down to Wheatley and Kingsville, and I accepted immediately as soon as I did get an invitation, because I knew that there was a problem and I felt that there was something I could do to assist and to maybe lay their fears at rest. We made some compromises and I have to compliment my staff really. I just want to publicly say what a great job they did in working with the commercial fishermen and in dealing with a very difficult problem. Sure, it's all very well for us as politicians to open up the gate and say, "Do this and do that," but in the long term we're doing it in their best interest. Once I had an opportunity to speak to the fishermen and point this out to them, they accepted that fact. There is no question.

Sure, I'd like to do more. I'd like to get into a buy-back programme if I could, but there are problems where I can't. When I look back on the things we've done and the success we've attained with the commercial fishermen in Lake Erie, I'm very proud and I have to, again, thank my staff for the efforts they went through, the time they put into this particular problem and the success that is being obtained today will guarantee that we will have a commercial fishery in Lake Erie for years and years to come. Don't take it lightly, members of the committee, because

50 per cent of the freshwater fish in Canada—

Mr. Bain: On a point of order, Mr. Chairman, that's a reflection on the members of this committee. No member of this committee was taking it lightly.

Hon. Mr. Bernier: You may think it's a parochial thing for Mr. Mancini, and I appreciate his concern.

Mr. Bain: No, no.

Hon. Mr. Bernier: But 50 per cent of the freshwater fish in Canada comes from Lake Erie. It's no light matter. We didn't take it as a light matter. We are very concerned within the whole ministry and we acted and we acted responsibly, both at the west end and the east end of Lake Erie and we've got the problem in hand; we've got the co-operation of the commercial fishermen.

Sure, there were some short-term economic problems, and I accept that, but I had to point out that we were tightening up, we were enforcing certain regulations. It was only in their best interests. They had to tighten up their belts. It's not easy for a politician to come along and say: "You've got to do certain things because we want to maintain the viability of the fishery."

We did it. We were sincere. We had the facts behind us. We had biological data. We're gathering more as we go along but we're convinced, even after these short few months, that we're on the right track, in the best interests, with all due respect to you, sir, of your constituents.

When history is written a year, two, three or five years from now, you will stand up and thank the members of my ministry for what we have done in 1976.

Mr. Bain: Only if you write the history.

Mr. B. Newman: Mr. Chairman, would you like to hear the results of the election for now?

At 9:12, of the Electoral College vote, 107 for Carter, 25 for Ford. The vote overall was going 51 per cent Carter, 48 per cent Ford. In Pennsylvania, 50 per cent Ford, 49 per cent Carter; New Jersey, 53 Ford, 46 Carter; Illinois, 42 Ford, 57 Carter; Ohio, 49 Ford, 49 Carter.

Hon. Mr. Bernier: What does the computer predict?

Mr. B. Newman: This is not TV, this is radio.

Hon. Mr. Bernier: I see.

Mr. Chairman: Mr. Lane.

Mr. Mancini: Excuse me, I'm not finished, Mr. Chairman.

Mr. Chairman: Oh, I thought you were.

Mr. Mancini: No, I just took a brief recess so the minister could comment. I would just like to say, Mr. Minister, we really appreciated the assistance that the Minister without Portfolio was giving us. However, Mr. Minister, it does seem strange that when a minister of the Crown goes into an area, or when he writes you a letter which specifically asks for assistance for commercial fishermen and when you know that I also had been talking to you about that situation and I'm concerned, I would expect you or Mr. Henderson to let me know, in the same manner that Mr. Henderson was kind enough to write me a letter to inform me that he was going to be in the town of Essex, which is not even in my constituency, to open up some road, I would expect him or yourself to let the elected official know that something of great importance is going to be done or is trying to be done in his particular riding. I would expect that as common courtesy. As for you trying to convince the members of this committee that we're against your long-range plans it's simply not true. I've told the fishermen in private and in public that this lake just has to be managed; but we're against it and we're still against the way that you have tried to implement this, with your disregard, up to now, of some type of compensation for the fishermen. When we give you these proposals in writing and we receive no concrete answer from you, and we have to read in the paper that you had some kind of meeting with the Minister without Portfolio and you're taking in all the suggestions, surely I think there's some kind of lack of communications and it's not from our part, because we sent you this information and I met with you and I talked with you and I met with your assistant deputy minister and I met with your regional people from London and your man from Chatham.

So if you want to help the fishermen, fine, but don't say that there's some kind of a lack of communication or that we're not interested in the long range plans, because we are. It's a simple case that you tried to play politics and that's that. Just admit it.

Thank you, and that's finished.

Hon. Mr. Bernier: I don't accept those remarks, Mr. Chairman. They're—

Mr. Mancini: Well, it's true.

Hon. Mr. Bernier: —totally politically oriented. They're designed to build the local member's ego and—

Mr. Mancini: Don't worry. I won't send any Hansards to anybody.

Hon. Mr. Bernier: I'm interested in the commercial fishermen.

Mr. Mancini: Why don't you work through the local member?

Hon. Mr. Bernier: I'm interested in the long-term life—

Mr. Mancini: Sure.

Hon. Mr. Bernier: —and the management of the resource of that particular lake.

Mr. Chairman: Mr. Lane.

Mr. Lane: Thank you, Mr. Chairman. I'd prefer to have more time for this item because there's a lot to be said, I think, about fish and wildlife in Ontario, especially in northern Ontario. My riding, of course, is especially dependent on fish and wildlife as a secondary income for many people up there, and in some cases a primary income, and I'm concerned about the restocking of fish in many of the small lakes in the north. I know the fish hatcheries are less active in my area than they were a few years ago. Maybe there's a better way to restock lakes than to do it through the hatching of fish in the hatcheries. I do know that on Manitoulin Island, about three years ago or so, we took full grown pickerel and put them in Lake Kagawong to try to stock that lake with pickerel. I just wonder if we're still doing that and if we are, do we have any results to date?

I know a lot of small tourist operators in the north, and especially those in my riding whom I'm familiar with, are very hard hit when we decide we have to close a lake or shorten the season for trout fishing. These people maybe depend to a greater degree than they should on the income from fishing and if they're not going to get a lot of fishermen coming to their place of operation, of course, they can't stay in business. I'm just wondering if we can't give them more warning and a little more input themselves and have a little chance to gear up for some other sort of income rather than just from fishing, because I don't think the resorts will stand it.

I would ask you to consider a limit on the number of fish that a fisherman can take in the little lakes around Elliot Lake, rather than shortening the season or closing the season, because these guys are located there.

If the season's changed or shortened, with the short season in any case, I think that they could live with it much better if the fishermen could take home a smaller catch and still come.

I know around Elliot Lake there's a lot of those lakes that the trout grow awful slowly and I don't think people understand this really and they expect them to take out a lot more than that lake can stand. I do know some of our people are being hurt and hurt pretty bad because we're changing seasons and closing lakes. In some cases that's their only method of livelihood and if they're located on a lake that's suddenly closed or the season's shortened up they're pretty hard hurt. I just wish that we could give them some chance to change their method of operation where they'd have some income from some other source, and maybe in the interim we could cut the catch rather than cut the season or close the lake.

Thank you very much.

Hon. Mr. Bernier: That's a very interesting comment. I think the member's aware that a couple of years ago we changed the limit from five to three. I have to admit that I was berated by sportsmen right across northern Ontario for taking what they say was a very arrogant stance. Having been involved with the commercial fishermen and with the sportsmen right across northern Ontario and, quite frankly, being an ardent lake trout fisherman myself along with my two sons—who, I guess, have a tendency to show me up once in a while when it comes to lake trout fishing—in many lakes of northern Ontario it was becoming obvious to us that something had to be done with this species which is very sensitive.

When you think that in northern Ontario today out of the hundreds of thousands of lakes we have about 2,000 which can support lake trout, you have to accept the fact that we have a very sensitive species, one that should be protected a little more than other species. You can't compare lake trout to walleye. Walleye is a warm water species. Lake trout is a cold water species and there is no comparison between the propagation of lake trout per acre and that of walleye.

I would like to ask Ken Loftus, who is an expert in this field, to give us some comments on those lakes around Elliot Lake. Mr. Loftus—about sensitivity and how concerned we are about the lake trout lakes in northern Ontario.

Mr. Loftus: Mr. Chairman, Mr. Minister, the concern about the capacity of our lake trout waters to meet the demand is, essentially, universal across the province. As the minister indicated some two years ago there was a broad consensus that we ought to reduce the allowable harvest by reducing the creel limit from five to three. As a matter of fact in Lake Simcoe, I think, it went back from three to two.

In those two years of that restriction, the field people have been collecting all possible statistics on the impact of this amount of restriction. By and large, I think the effect has been almost what we had hoped for. There is some consideration being given to further restrictions in some specific areas. I believe that one of the areas involved is the area which was mentioned specifically, the Elliot Lake area, and, perhaps even more broadly than that, throughout that particular region. The field staff are consulting with the various interest groups. We do not yet have a firm recommendation concerning any further restrictions which may or may not be necessary.

Mr. Lane: I believe, sir, there is some thought of closing off some more lakes and in shortening the fishing season in some of the lakes. I am saying to you that rather than do that at this point in time, I think we should look at restricting the catch until these people can get geared up for some other source of income. Because they are on a trout lake, they have all their dollars sunk in the business and if there's a closed season, those guys have had it.

Mr. Loftus: I think this is a very serious concern and our people, I believe, have been working very closely with the Ministry of Tourism people and with the tourist operators to indicate that, if there is a change indicated by the data, this is the direction in which it will probably have to go. I think there has been a lot of encouragement for broadening the base of those outfits which traditionally have based their operations on the fish populations.

Mr. Lane: But it will take some time to do that. Thank you very much.

Hon. Mr. Bernier: Another interesting point, Mr. Lane, is we closed the season on many lakes of northern Ontario. As you will recall in the past it was open season for 12 months of the year and now we do have a closed season for lake trout from October 1 to the end of December. I can look at my own area of northwestern On-

tario today, just after two years, and the tourist operators are coming to me now and saying "We disagreed with you when you did it. We objected to you when you did it." There was a demand by non-resident fishermen for fall lake trout fishing and we cut that off by closing the season on October 1. But now they are thanking us for it because the harvest and the success ratio during the summer has increased dramatically.

[9:30]

Mr. Lane: I think, Mr. Minister, they have learned to live with that and, as you say, they are responding well to it now. But the thought of cutting back the spring season is what's really hurting my guys now. There has evidently been discussion about the possibility of cutting that back by a month. They are pretty hungry in the spring—it has been a long lean winter—and, boy, if those fishermen don't come early in May, we are in trouble. I hope we will look at that situation.

Hon. Mr. Bernier: I appreciate your remarks.

Mr. Lane: Thank you.

Mr. G. I. Miller: Mr. Chairman, Mr. Minister—

Mr. Laughren: On a point of order, Mr. Chairman, I thought that there was some kind of understanding by the opposition parties that debate would move on to the next vote. Was that not your understanding? It was assured to us by your House leader.

Mr. Haggerty: We were trying to complete this particular vote before 6 o'clock. The division bells kind of set us back half an hour and then we thought it would go to about 6:30 and it would be completed but then again I see there are other interested members who want to discuss this particular vote. There have been some questions raised by the NDP over there and I don't know when it is going to stop but I am just as interested as you are in getting on to the next vote.

Mr. Laughren: It just seemed to me that there was an agreement. That's what I am stressing—not whether or not people would like to talk all night on this particular vote—the fact that there was an agreement and we would move on to the next vote.

Mr. Ferrier: I would like to speak to that point of order. I was making a speech and trying to get some information this afternoon

when the Liberal House leader came over to me, after having come in here with our House leader and graced our committee with their presence.

He came over when I was speaking and trying to get an answer and said, "You fellows can be finished at 6 o'clock on these two votes and get on to the other ones." Being kind of pressed at that time, I said "Certainly, we can be" so we tried to exercise some restraint but apparently the whole business has fallen through.

I feel kind of badly about it since we were graced by those two gentlemen's presence and they have apparently made an agreement but I see we can't live up to it.

Hon. Mr. Bernier: May I make a suggestion? Mr. Miller and Mr. Spence are the only two speakers left.

Mr. Chairman: Mr. Reid.

Hon. Mr. Bernier: Mr. Reid is not here—oh, I am sorry. I would like to move on, but I mean the agreement you have reached—

Mr. Bain: You were part of the agreement as well.

Hon. Mr. Bernier: No, I was not.

Mr. G. I. Miller: The matter I would like to speak about is of fairly serious concern, particularly in Lake Erie. I would like to make a few brief comments and let the minister respond to this.

Mr. Ferrier: A lot of us have had to forgo things but I mean I don't care—

Mr. Johnson: On a point of order, Mr. Chairman, I would like to ask a question. When do these private agreements come up?

Mr. Bain: An agreement was made between the House leaders of all three parties. It was made at the beginning of the week that we would—

Mr. Haggerty: No, it was not made between—

Mr. Laughren: Between the House leaders.

Mr. Haggerty: No, I can't accept that.

Mr. Bain: It was so.

Mr. Laughren: Ask your House leader.

Mr. Bain: You discuss it with your House leader. The problem has been that the estimates were going to be mapped out for every ministry so we would be assured of having each ministry before this committee

and each ministry could be dealt with fairly and get a corresponding length of time. There were difficulties, apparently, in communicating that between the House leader of one party to the members of that party and therefore it wasn't until well on in this week that we finally came to an agreement. Time and time again that agreement seems to go out the window.

Mr. Haggerty: There has been no agreement to my knowledge. I have a note here from the Liberal House leader and he has two question marks here that, hopefully, things will proceed according to discussions they had. But he didn't say it was going to be bang, right there, that we are going to cut off debate.

Mr. Ferrier: I hope you are going to keep your House leader away from me when I am making speeches and not interrupt me with that kind of nonsense. I like to make my points and I like to get answers and be able to communicate. I didn't appreciate that and what he was trying to communicate falls through.

Hon. Mr. Bernier: I am neutral, fellows.

Mr. Laughren: It is to the advantage of the opposition parties, not the ministry, obviously, that in the 20 days remaining to discuss estimates in committee, they are apportioned out to our mutual advantage. That is all that the agreement was supposed to do. There was nothing partisan about it.

Mr. Haggerty: What you use up in Natural Resources you lose somewhere else; that is for sure.

Mr. Chairman: Let us advance on this vote as quickly as possible.

Mr. Spence: I withdraw my remarks, Mr. Chairman. If the House leader made a commitment to any of the members I will be glad to co-operate with it.

Mr. Chairman: That leaves Mr. Miller and Mr. Reed.

Mr. G. I. Miller: Thank you, Mr. Chairman. I appreciate the fact that you have given me the opportunity to speak because this has been a serious problem in my particular area. The fishing concerns Port Dover, the Long Point Basin, Port Maitland. The perch fishermen and the smelt trawler fishermen were caught in a very tough bind this summer; I think the minister is aware of that.

Before I advance any further on that, I would like to speak in support of my col-

league. I think that as a new young member he was trying to do his job on behalf of his riding and I would hope that the minister would see fit to co-operate with him. I would expect the same co-operation in my area; I did receive co-operation and I do appreciate that.

The answers weren't all that I had hoped for but I would like to point out, as the minister perhaps has already done, that Lake Erie does produce over 60 per cent of the fish of Ontario and, he indicated, 50 per cent of all the total fresh water fish in Canada. I was amazed at that, too. I had an opportunity to delve into the figures and I would like to point out that going back over the last 14 years,—the records in the report cover from 1964-74—the amount of fish taken from the lake has gone up and down over the years, perhaps in a three-year period. Consequently, in 1976 the enforcement of the 7½ inch perch did create a real hardship to the fishermen in Long Point Basin. As well, it created real hardship for the tourist industry, the hotel services and the food industry in Port Dover which is dependent on the fishing industry.

I wonder if any of the research has been finalized on the length of perch? I think the fishermen indicated to you that they wanted to co-operate but you didn't see fit to co-operate with the fishermen. I think they tried to prove the point that the fish in the Long Point Bay were smaller in length than those in some of the other areas of the lake.

They indicated, too, that fishermen at the lower end of the lake had some alternative fishing at their disposal such as white bass and yellow pickerel whereas in our area, the Long Point area, they didn't have that alternative. Consequently, it has put a very hard financial strain on the fishermen in the Port Dover Basin and Port Maitland.

I see that a meeting was held and reported on on October 27, 1976, in the Simcoe Reformer, at which it was said a decision on the future of the perch fishery will be made early next year. I would certainly hope that we can come up with something so that the small fishermen might be able to survive. I think they are fighting for their very existence. I give them credit for that because I think they want to co-operate with your ministry and I think they indicated that when they went out as a group in August. They were trying to prove a point and they did it in an orderly manner.

The results were such that they couldn't begin to catch enough perch in the eight-inch size. They could qualify with the 7½ inch size. I think perhaps a system might have

been devised so they could have phased in this eight-inch size rather than coming down with a hammer for an eight-inch basis in one particular year. I think it was unfair, particularly in the Long Point Basin, that it had to be enforced on that basis.

I realize that it wasn't an easy decision when you did have control perhaps across the lake. As I pointed out before, I think there were some alternatives in the lower end of the lake. There were no alternatives in the eastern end and consequently it has created a tremendous hardship on the fishermen.

Again, I think you came up with a policy by which you were going to hire—they wanted to do some testing. You did agree to do this testing and spent approximately \$40,000 on the project but in discussion with some of the fishermen tonight, they indicated this got under way in the past two weeks. Consequently, the weather conditions are such that it is going to be difficult. I understand also that they are running into problems. As the fishermen pointed out themselves earlier in the summer, it is difficult to fish in the bay after it gets into November and I think they are finding that out at this point in time.

Mr. Minister, I would hope that you would co-operate with the fishermen. I think they have every intention of co-operating with you so that they might be able to survive in the year coming up at least.

Hon. Mr. Bernier: Mr. Chairman, if I may comment on the member for Haldimand-Norfolk's comments. I appreciate his concern and his interest on behalf of the commercial fishermen in the Long Point area.

The meeting we did have with him and members of my staff I think was a very productive one. It gave me an opportunity to express to them the responsibility that I have, along with my staff, of managing that resource—again, in their interest. I am sure it would be the easiest thing to do to give in and I think that if we had continued on the course we were on, there might have been some short-term benefits for those particular fishermen.

I have to say to you with all respect that as we go down the road and as the fishermen look back, I feel very confident that although the actions we have taken may have been harsh, may have been tough in the short-term, in the long-term they will have a commercial fishing industry which they can be proud of, which will be viable, and which they can look back on and say, "It was difficult at the time. We had to tighten our belts. There were certain eco-

omic problems." Hopefully, they will suffer through it but it is in their best interests.

It is certainly not for the government or the people living in the Kenora area or Thunder Bay or any other area that we are doing it. It is for your own people in that area and I think they accepted that. We admitted that maybe the biological information was not complete and that we should do some further investigation which we are doing. We are working very closely with them to see if that area has some unique characteristics.

Until that information is available to us, I have to say that I sent a letter to all the commercial fishermen that we would adhere to the eight-inch limit for 1977. I made it very clear early in the new year. The letter has gone out; I have a copy of the letter here—I don't know if you received a copy or not? If you haven't, I will make sure a copy gets to you.

The letter points out our concerns and lets them know well in advance what our desires are, what our goals are, again in their best interests. I would hope they would co-operate with us and the indications I have are that they will co-operate. I think being responsible people, being concerned about their future, their livelihood, their children, their children's children who may want to be involved in that particular industry, they accept the fact that certain restrictions and controls have to be placed.

[9:45]

In fact, when you look at the international agreement on Lake Erie, the length is $8\frac{1}{2}$ inches, not eight. We compromised by coming back to eight inches, I have to tell you that the Americans are saying it should be $8\frac{1}{2}$. Our biologists, in their opinion, feel that we can live with an eight inch length. Until we have more data and more information, I would hope they would co-operate with us. For anything further than that we'll watch them very carefully. We're as concerned as you are and as the commercial fishermen are to maintain this as a viable industry for that particular lake.

Mr. G. I. Miller: What are the results of the tests as far as length is concerned? Has there been any concrete evidence of getting the eight-inch size in the Long Point basin?

Hon. Mr. Bernier: Maybe I could get Mr. Loftus to give the latest report.

Mr. Loftus: Mr. Chairman, Mr. Minister, I am sorry, we do not have definitive results as yet. The sampling programme is still in progress. There were some difficulties in get-

ting it moving as early as the minister had directed and as early as we had hoped. It will take us a good part of the winter to look at the information we have and to compare the Long Point stuff with that of the other three basins in the lake. So I'm afraid it will be some time before there is a result from this current sampling programme.

Mr. G. I. Miller: Mr. Minister, again I think this is the concern, I feel that the older fishermen in the Long Point basin do know the area perhaps much better than your own employees. They've been working there for years, many generations, and I think they're trying to point out the fact that if you let them grow to eight inches or more you lose in mortality rate because of the age factor. I'm not an authority on it. I just listen to the fishermen and I feel they have tried to be honest and fair. I think if they ever lost a year's fishing because of trying to prove this point and trying to work it out, I think it's sad. But if they can attain that longer length, then of course I think we would have made a step forward. I'd be the first one to admit it. I just present the case as the fishermen present it to me and I feel they have had generations of experience, especially in Port Dover. As I said before, they didn't have an alternative and I think it created a greater hardship there than perhaps anywhere else along the lake.

I understand too, that the smelt fishermen's market is particularly slow at this time, and that has created another hardship. They have to depend on the facilities at the upper end of the lake, which is 170 or 180 miles from Port Dover, and perhaps this is another area where a little more attention and a little more support could be given to an alternative facility to handle the smelt in the eastern end of the lake.

Hon. Mr. Bernier: Mr. Chairman, I appreciate the member's concern that he has expressed on behalf of his commercial fishermen. I too have commercial fishermen in my own area that I represent and I respect their knowledge. Make no bones about it, I know how they feel about it. They've been on the lake, they know the situation, they know every aspect of that particular lake. But I have to ask you to look back in history and to recall what's happened with Lake Erie. White fish, blue pike, herring, we've seen all those species come and go in Lake Erie.

Mr. Haggerty: They have disappeared.

Hon. Mr. Bernier: They've disappeared, you are right on.

Mr. G. I. Miller: That is correct. I agree with you. I was talking to an old fisherman who fished at Port Maitland for perhaps 60 or 70 years and he's seen that same thing happen. But then something else came along to take its place. When you look over the poundage coming out of the lake in the last 14 years there's no indication that they are disappearing.

Hon. Mr. Bernier: The thing is, we are changing from one species to another. Had we had a better handle on management in those days, that change maybe would not have occurred in such dramatic fashion. We could have maintained a good white fish fishery, blue pike fishery, and herring fishery. We don't want that to occur again. We may be coming to the end of something changing.

Mr. G. I. Miller: I don't know. Perhaps it will continue because of the fact that you have pollutants in there. That could be an affecting factor. I think the poundage and the record speaks for itself. The poundage is still coming in.

Hon. Mr. Bernier: All I can ask you is to bear with us. We're working on their behalf. We're not fighting the fishermen, we're not working against them really. We're trying to work with them.

Mr. G. I. Miller: I want to be constructive on this.

Hon. Mr. Bernier: I realize that and I appreciate your sincerity, but I have to say to you that the experts coming to me and the facts they are putting before me are pretty positive, pretty strong, and when you think about doing things for people on a long-term basis, I just have to accept their arguments. I know if you co-operate with us we'll have the solution in their best interests.

Mr. G. I. Miller: I certainly hope so, but I think a lot of consideration should be given to the fishermen and the input they would want to contribute. Perhaps a restocking programme could be reimplemented. Lake Erie produces 50 per cent of all the fresh water fish in Canada. I think it deserves some special attention.

Hon. Mr. Bernier: We will leave no stone unturned to make sure that is maintained. We're proud of Lake Erie.

Mr. Chairman: Before Mr. Reed speaks, I would like to point out to the committee that I've been told there will be a vote within 10 minutes.

Mr. Reed: Okay, Mr. Chairman, thank you very much.

Hon. Mr. Bernier: Want your reply now?

Mr. Reed: I'll be brief. Mr. Minister, I have a question: Is there any truth to an intent proclaimed by an official of your ministry that legislation is being considered to force access to rivers over private property?

Hon. Mr. Bernier: Not known to me. I've never heard that mentioned. It has never been brought to my attention. The deputy denies anything like that is being considered.

Mr. Reed: Thank you very much. That clears it up. You've given me great relief tonight over that.

Mr. Gaunt: You gave the right answer.

Mr. Reed: You gave me the right answer and we are obviously going to have to clear it up with the official who made that indication. I just want to ask a couple of questions about the sport fishing programme. As you know, my leader asked a question about the sport fishing programme in Lake Ontario in the House the other day and it was in connection with the man-made chemical contaminants, Myrex and PCB and so on, and the fact that in New York State there has been a great curtailment, I think—

Mr. Bernier: Let's put it this way, a flip-flopping back and forth.

Mr. Reed: Yes, of the sport fishing programme. At the time, you indicated your people were very concerned about the contaminants and so on—a concern, incidentally, which I share very much, partly because of the psychological impact of having the sport fishing programme and of course encouraging people to catch these fish, which may not be quite as edible as we would like them to be. So I was wondering if in your deliberations there is any time line so far as coming to a conclusion about the sport fishing programme as it relates to the man-made chemical contaminants in Lake Ontario specifically, because of course that's where the big discoveries have been made. That's one question.

The final question that I have is connected with obvious pressures that must be put on your ministry from the sportsmen and the sport fishermen who have indicated to me that they would like to see commercial fishing ended forever on the Great Lakes so that the sport fish could migrate up the rivers; enhancing their catch, of course. I just wondered, in the light of the fact that a good

many of these rivers have dams on them and the fact that the fishermen feel this way—and the fact that obviously you want also to promote a very viable commercial fishing industry where it's possible—why, in the sport fishing programme, were non-migratory species not introduced in the rivers that could support those non-migratory species? I asked this question of a biologist in the sport fishing area, and it was a question that he could not answer; he said he didn't have an answer to the question.

Those are the questions, Mr. Minister, and that's all I had to ask on this.

Hon. Mr. Bernier: If I could answer them quickly, and I'll ask for Mr. Loftus or Mr. Irizawa to respond to the second question you asked.

Yes, we're concerned about what's happening in Lake Ontario as it relates to pollutants. I think you're aware that the Mirex problem is much more severe on the American side than it is on the Canadian side, nevertheless we're still concerned. Our planning has gone ahead in 1976, and I indicated to your leader that we were reviewing our planning for 1977. As you know, the programme is an ongoing one with regard to coho, chinook and rainbow trout, so we'll be reviewing what we're going to do in 1977 with regard to that particular lake because of our concern.

Warnings will still go out to the general public on the amount that they should eat. We recognize the fact, and we accept the fact, that we must maintain the recreational opportunity. People still love to fish; it's outdoors and it adds so much to the way of life in Ontario that we're reluctant to stop that completely. I can assure that every care and consideration will be given to next year's operations.

I'll ask Mr. Loftus to comment on the sport fishing question.

Mr. Loftus: Mr. Chairman, Mr. Minister; I'll be very brief, I know your time is short. I think our responsibility, sir, is to rehabilitate the whole resource base in Lake Ontario. The matter of how much of that rebuilt community goes to recreational fishing and how much to commercial fishing is a matter to work out. It's a very difficult question to resolve, but we think we need both in order to properly manage the lake.

Mr. Reed: I agree with you, sir.

Mr. Loftus: With respect to whether we are planting or why don't we plant some non-migratory species, the answer is we do.

There is a substantial planting programme in the east end of the lake, formerly occupied by lake trout, partly lake trout and partly the hybrid Splake.

Mr. Reed: I think perhaps you misunderstood. I was referring to the planting of fish in the streams themselves. I was wondering how the decision would be arrived at, for instance in the Credit River, to use rainbow trout when brown trout have been a long time established species that can thrive very well in that river? I would ask you, for the sake of the pressures of the sport fishing people, who are opposed to commercial fishing in the Great Lakes and so on, why should it not make some sense, for instance to plant brown trout there rather than rainbows that have to migrate?

Mr. Loftus: Both browns and rainbows, I believe, have to migrate. I wonder, in view of the time constraint, could we get together and discuss this whole question in some detail?

Mr. Reed: I'd be delighted, thank you.

[10:00]

Mr. Gaunt: In view of the time constraints, time is of the essence, I'll get right to the point. It's been indicated to me with respect to the hunting licences, that there is a problem in that area from the point of view of the issuer. As I understand it, there are two levels of fees, the one for farmers and the other one for people who don't derive the main source of their income from the farm. I understand that the lower rate applies to farmers and they have to take an affidavit if there's some question saying that they derive most of their income from the farm, and that being the case then they get a lower rate for their hunting licence. Now I've had some representation from the point of view that there are people who sign that affidavit who really aren't farm people, but they do so from the point of view of getting the lower rate. This puts a very difficult construction on the whole affair from the point of view of the licence issuer, because that person is then in the position of saying, "Look, you're not a farmer and you don't deserve the good rate on this hunting licence." I think your people do an audit once in a while, but it is a difficult area and as far as I'm concerned I stick up for the farmers year in year out, but I wonder if it wouldn't be a more practical solution if there were a uniform rate right across the board and we wouldn't be getting into this kind of thing.

I understand that the rate is \$5 and \$10, I think that's the rate, and I wonder if we couldn't saw it off at \$7 or \$7.50 right across the board and let it go. I think that it does tend to make liars out of some people and it's not a good situation from the point of view of the licence issuer; or even from the standpoint of your people, who have to come in and audit these things and then go back and say to the person, "Well, you misrepresented your position on this affidavit and therefore you lose your gun or whatever equipment you have for a period of a year"; this kind of thing. I think that it's really a needless exercise in view of the fact that solution appears to be fairly simple.

Hon. Mr. Bernier: I will ask Mr. Johnston just to comment. He's the expert in this field.

Mr. D. R. Johnston: Mr. Chairman, Mr. Minister; you are referring to the farmer's deer licence and the regular deer licence. You are correct, the farmer's deer licence is \$5. There is a definition in The Game and Fish Act which defines what a farmer is; and that is a man, I'll read it: "Farmer means a person whose chief occupation is farming and who is living upon and tilling his own land or land to the possession of which he is for the time being entitled."

I think the key here is "chief occupation", people can argue that point—and I should point out this is good only for the county in which the man resides.

Landowners do like this privilege. You are quite right, on occasion it is abused. We do check up on them and we do lay charges when we do catch up to them.

Hon. Mr. Bernier: I wonder if I could point out to Mr. Gaunt that in 1975-76 we sold 87,000 resident deer licences and only 4,366 farmer deer licences. So if you brought them up even a few cents the farmers would be carrying a bigger burden.

Mr. Gaunt: Yes. Well I—

Mr. D. R. Johnston: You don't want to suggest that?

Hon. Mr. Bernier: No, I realize that.

Mr. Chairman: Can we carry this vote?

Mr. Gaunt: I just wonder if there's an easy way out of it.

Mr. Chairman: Can we carry this vote before the—

Mr. Gaunt: Yes, I don't want to prolong it at all.

Mr. Laughren: Point of order, Mr. Chairman, if I might: The vote is carried, and I wondered in view of the fact that if we go up and vote now it's going to be about a quarter after or twenty after before we get back anyway and if the committee—I'll put it in the form of a motion if you prefer: That the committee adjourn now and meet tomorrow morning at 10 o'clock till 12, and then again from 2 till 6 tomorrow.

Mr. Chairman: Is the committee willing to meet from 10 till 12 and 2 till 6?

Mr. Haggerty: When we talk about agreement, the note that I had from my—

Mr. Laughren: Ray, you're in no position to talk about agreements at this point.

Mr. Haggerty: It's from 1 o'clock to 5.

Mr. Laughren: No.

Mr. Haggerty: That's what I had.

Mr. Laughren: You're in no position to talk about agreements at this point.

Mr. Haggerty: I'm not kidding you.

Mr. Laughren: You've broken too many of them.

Mr. Haggerty: I take exception to that remark, because I think that there is, I'm going by, trying to be as helpful as I possibly can, and I'm going by that statement or the remarks I got from the House leader, Mr. Breithaupt. He was talking to somebody over there and he came back and he showed me, he said from 1 p.m. to 5 p.m. Now you fellows might be changing this thing at your own will.

Mr. Chairman: Listen, we should be through with the vote in five minutes. Let's come back and finish up tonight.

Hon. Mr. Bernier: From 1 p.m. to 6 p.m.

Mr. Chairman: We will come back after the vote.

Hon. Mr. Bernier: I wonder, Mr. Chairman, if we could agree to 1 p.m. to 6 p.m., rather than 1 p.m. to 5 p.m.? There was a compromise there.

Mr. Laughren: Excuse me, what I am suggesting is that—that's only four hours and—do I have the floor, Mr. Chairman?

Hon. Mr. Bernier: No, it's longer than that, five hours.

Mr. Chairman: Order, please.

Mr. Laughren: What I am suggesting is that in view of the slippage in time, that we sit, as we did last Wednesday in this committee, from 10 a.m. to 12 noon, and again from 2 p.m. to 6 p.m.; or from 10 a.m.-12 noon, and from 1 p.m. to 5 p.m., if that's what the minister was suggesting.

Hon. Mr. Bernier: I was suggesting 1 p.m. to 6 p.m.

Mr. Chairman: Well, actually there is a select committee that is meeting at 10 a.m. and the minister is tied up with that.

Mr. Laughren: But surely the standing committees would take precedence over a select committee, being an extension of the Legislature.

Mr. Chairman: Well, it's entirely up to the committee, whatever you want to do.

Mr. Laughren: Would you like me to put it in the form of a motion?

Mr. Haggerty: Well I don't know, here's what was passed to me by the House leader, sit from 1 p.m. to 5 p.m.; and he put a question mark you can go to 6 p.m. if you want to, because he said somebody couldn't make it in the morning.

Mr. Chairman: Well we can discuss it. Let's come back for five minutes and discuss this.

Hon. Mr. Bernier: Oh, let's settle it right now. There are enough of us here.

Mr. Bain: If I may speak to the point of order, we are simply trying to overcome some problems, as Floyd mentioned, of slippage of time. There are certain votes that have to be covered in a fair degree of depth, and unless—you know if we can come in tomorrow at 10 a.m. it's going to save time, it's going to allow the other estimates of other ministries to move more smoothly.

Hon. Mr. Bernier: Eleven a.m. to 12 noon and 2 p.m. to 6 p.m., would that be agreeable?

Chairman: Would 11 a.m. to 12 noon, and from 2 p.m. to 6 p.m. be agreeable?

Agreed.

Then this vote is carried.

Vote 2303 agreed to.

Mr. Chairman: The committee will meet tomorrow morning at 11:00 a.m.

The committee adjourned at 10:07 p.m.

CONTENTS

Tuesday, November 2, 1976

Outdoor recreation programme	S-2571
Fish and Wildlife	S-2571
Adjournment	S-2591

SPEAKERS IN THIS ISSUE

Bain, R. (Timiskaming NDP)
 Bernier, Hon. L.; Minister of Natural Resources (Kenora PC)
 Ferrier, W. (Cochrane South NDP)
 Gaunt, M. (Huron-Bruce L)
 Haggerty, R. (Erie L)
 Johnson, J. (Wellington-Dufferin-Peel PC)
 Lane, J. (Algoma-Manitoulin PC)
 Laughren, F. (Nickel Belt NDP)
 Mancini, R. (Essex South L)
 McNeil, R. K.; Chairman (Elgin PC)
 Miller, G. I. (Haldimand-Norfolk L)
 Newman, B. (Windsor-Walkerville L)
 Reed, J. (Halton-Burlington L)
 Smith, R. S. (Nipissing L)
 Spence, J. P. (Kent-Elgin L)
 Stokes, J. E. (Lake Nipigon NDP)

Ministry of Natural Resources officials taking part:

Loftus, K. H., Sport Fisheries Branch
 Johnston, D. R., Wildlife Branch



Legislature of Ontario Debates

SUPPLY COMMITTEE—1

**ESTIMATES, MINISTRY OF
NATURAL RESOURCES**

OFFICIAL REPORT — DAILY EDITION

Third Session of the 30th Parliament

Wednesday, November 3, 1976

Morning Session

Speaker: Honourable Russell Daniel Rowe

Clerk: Roderick Lewis, QC

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CONTENTS

A list of the speakers taking part in the debates in this issue of Hansard appears, in alphabetical order, at the back of this issue.

Daily contents of proceedings also appears at the back of this issue. Reference to a cumulative index of previous issues can be obtained by calling the Hansard Reporting Service indexing staff. (Phone 965-2159)

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LEGISLATURE OF ONTARIO

SUPPLY COMMITTEE

WEDNESDAY, NOVEMBER 3, 1976

The committee met at 11:15 a.m.

ESTIMATES, MINISTRY OF NATURAL RESOURCES (continued)

Mr. Chairman: There is a quorum. We are on vote 2304. Item 3 is commercial fish and fur, and I am told most of the ministry officials are here who were here last night for fish and wildlife. Would it be possible to discuss item 3, commercial fish and fur, first?

Hon. Mr. Bernier: I might add a few comments, Mr. Chairman. Much of the discussion last night was centring on commercial fishing in Lake Erie and Lake Ontario. I am wondering if there is anything further?

Mr. Haggerty: We covered northwestern Ontario, by the hon. member for Lake Nipigon (Mr. Stokes).

Hon. Mr. Bernier: So most of it has been done. If there is anything further we might deal with both votes together.

Mr. Chairman: The other vote has been carried.

Mr. Haggerty: You want to deal with item 3 then, commercial fish and fur?

Mr. Chairman: If the committee is in favour.

Mr. Laughren: I would have no objection other than that the other people who might want to take part in this vote thought that item 1, mineral management, was up first and therefore didn't come for 11 o'clock.

Mr. Chairman: That is a good point.

Mr. Laughren: That is the only reservation I would have.

Mr. Haggerty: I don't know if we have any more comments to deal with.

Hon. Mr. Bernier: If you wanted to get into this we could maybe do it now. Would that be agreeable, Mr. Chairman?

Mr. Chairman: I am in favour. If there happens to be someone who has a point I think—

Mr. Reid: Are we talking about fish?

Mr. Chairman: Commercial fish and fur.

Hon. Mr. Bernier: Continuing the discussion we left off last night.

Mr. Chairman: We have had fish and wildlife; now we are on commercial fish and fur.

Mr. Reid: I wanted to talk about a fish hatchery in Rainy River district, but if we have gone past that I can talk about commercial fishing just for a minute if I may, Mr. Chairman.

Hon. Mr. Bernier: Before we get into that, Mr. Chairman, I take it we are going to deal with item 3 first?

Mr. Chairman: Yes.

On vote 2304, resource products programme; item 3, commercial fish and fur:

Hon. Mr. Bernier: I just want to bring to the members' attention the committee that was established some time ago regarding the development of the humane trap for Canada. It is a federal-provincial committee that has been working for some time now. They have a reasonable budget. They have been asking for submissions from trappers for a year or two now. They have been doing some very extensive testing programmes within the University of Guelph for both the biological testing and field testing this year. I thought you might be interested in a trap that was developed at Kapuskasing. This is one that has attracted a lot of attention. It has not been totally approved as yet. I'll give you a little demonstration. I'll make sure my finger doesn't get caught in it. There was always a problem with the "instant kill" aspect of the leg-hold trap, and this is the one that has been developed after some considerable amount of changes and testing in the field. It is being further tested now for the—

Mr. Haggerty: Wait a minute now, you're liable to lose your arm in that.

Mr. Reid: Could you get a little closer to it, Leo?

Hon. Mr. Bernier: I'll just show you how tight the jaws come together there. It's regarded as an instant kill. This is something that's being tested in the field. The price they're quoting, at least the manufacturing costs, will be comparable to the Conibear traps. A trap of this size would be around \$18 or \$19. It's lightweight, and the part I like about it is that it is designed and developed in northern Ontario. I just hope the test will prove out.

We don't recommend any large manufacturing programme until it has been approved and got the stamp of approval from the committee and from the CSA. We are moving ahead on it. It's a very ambitious programme. The co-operation from the federal government and from the other provinces is most encouraging. I am very confident that in the very near future we have a more humane trap than the leg-hold trap.

Mr. Haggerty: What is that trap designed for? What particular animals?

Hon. Mr. Bernier: There are different sizes. This one would be good for a mink or an otter.

Mr. Haggerty: A mink wouldn't be that big, would it?

Hon. Mr. Bernier: Oh, yes. It could be set. There are different types of setting. The bait could be set here where the animal actually goes through the area. The bait could be set in the middle where it puts its neck in. There are a number of ways that the trap could be set. I'll just trip it for you so you'll have an idea how it works. Notice the closeness of the bars. There is no space at all where the animal could get out.

Mr. Reid: Have you tried that in the field?

Hon. Mr. Bernier: It's being tested this winter very extensively.

Mr. Reid: How much is the cost?

Hon. Mr. Bernier: About \$18 or \$19. It's comparable to the Conibear.

Mr. Haggerty: Then you'll have to have a snowmobile to carry it.

Hon. Mr. Bernier: I just wanted to let the members of the committee know that this is a matter of concern to us. We've been working on it very closely and we're confident we'll have something to announce in the near

future. That's all I have to say about commercial fishing.

Mr. Reid: I'd just like to ask the minister what the ministry's policy is in regard to commercial fishing and the mercury problem. On Rainy River, which is mostly on the Canadian side—it's on the border and the border runs through Rainy Lake between Canada and the United States—the commercial fishermen in some cases on Rainy Lake and down on that water system on Lake Namakan have been told that they must quit commercial fishing because the Americans will not accept the commercial fish harvest from certain areas of Rainy Lake and Lake Namakan because the mercury content is too high.

At the same time, American commercial fishermen are fishing the south shore of Rainy Lake and selling their catch commercially in the United States; yet our fishermen on our side are cut off from selling in the United States. Is there any way we can get that ironed out because basically it's the same water system and the same fish?

Hon. Mr. Bernier: Certainly I'll have that particular case checked out. I just want to inform the member that it's The Food and Drug Act which prevents the sale of mercury-contaminated fish which have a mercury level of over 0.5 parts per million. In other words, if there is a test on the species of any quantity and it has a level higher than that, then The Food and Drug Act says you can't put it on the open market. In that sense, it's the federal Food and Drug Act that stops us from allowing commercial fishing. You can't sell the product under the laws of the federal government.

Mr. Reid: I was under the impression that they did that in response to pressure from the American government and that they regulated it or had this standard but the Americans are selling the same fish.

Hon. Mr. Bernier: That particular area is something we could look at. Maybe Mr. Herridge has something he could add to those comments. I'm not sure about the policy on mercury.

Mr. Herridge: As the case is reported by Mr. Reid, there does appear to be an inconsistency in the treatment of the fish that are coming from essentially the same body of water. The process through which the fish must pass is that those going for export out of Canada into foreign markets are handled by the fisheries inspection service of Environ-

ment Canada, which enforces the standards to which you have referred of 0.5 parts per million, which flows from the Food and Drug Act. The fisheries inspection service has the responsibility to determine whether or not the fish going for export meet the criteria or requirements of the importing country—in this case the USA. But if the record is as stated, that they are using fish from the same waters in the US and refusing ours, then it's certainly worth exploring, and this we would do.

Mr. Reid: Mr. Herridge, I wonder there whether I could ask—and I have some knowledge that you haven't, but I want to have it on the record—have you come to any policy determination in regard to mercury contaminated waters, whether natural mercury or industrial mercury, in regard to the leasing of land to tourist operators or handing out licences for commercial fishing?

Hon. Mr. Bernier: Mr. Chairman, that policy I believe is before the cabinet committee either this week or next week—the allowing of subdivision developments and other developments on mercury contaminated waters. Is that what you're referring to?

Mr. Reid: Yes.

Hon. Mr. Bernier: Yes, that policy is before the cabinet committee and, hopefully—it's before the cabinet committee tomorrow.

Mr. Reid: I've got a fellow who's been wanting to start an operation and we've had him hanging on for almost four years now. It's grossly unfair to him and others who are interested in this.

Hon. Mr. Bernier: We should have that policy and be able to announce it within two weeks.

Mr. Reid: Just one more question on the commercial fishing. Has the catch gone up in northwestern Ontario of the species allowed? Do you have the up-to-date figures on that?

Mr. Herridge: While that information is being secured, and going back to the member's first question with respect to Rainy Lake, there is a distinct possibility that in a body of water the size of Rainy Lake there are discrete populations. You might well find some of the populations are affected by contaminants and others may not be. This may be the reasoning for the American-side fish meeting their own health standards and the Canadian-side not. But it's still worth exploring.

Mr. Reid: What I wanted to get in was that perhaps the minister should give some consideration to a fish hatchery or some kind of fish propagation, particularly for walleye. We're talking, I suppose, primarily about commercial fishing, but the commercial fisherman takes a fair number of walleyes. We've heard over the year from the experts in the ministry that walleye hatcheries, per se, or as we used to understand a hatchery, do not work and in fact are very expensive and the survival rate is so low as to make it almost prohibitive.

But there are other methods, I understand, that are employed, particularly in the United States, for increasing the number of walleyes. I believe that in Tower, Minnesota, just south of me, they have some kind of walleye propagation programme. Does anyone in the ministry know about that programme?

Hon. Mr. Bernier: Yes.

Mr. Reid: Is it successful and are we going to get into it? Could I suggest either Fort Frances, Atikokan or Rainy River as a place that might be a good place to start?

[11:30]

Hon. Mr. Bernier: We've had some discussions about that particular programme. The people from Minnesota have been in correspondence with us. It's a pond slough type of bait rearing area where holes are dug out of the earth and fry are put in and developed. It's a kind of a one-shot deal. Once they've developed into fingerlings the fingerlings are moved on to other lakes and that's the end of it. They think it's quite successful. In fact I had plans to visit that area with the assistant deputy minister for northern Ontario last year but the forest fire situation that developed so early in the season pre-empted any plans we had. But we are going down to look at their operation when they're in full flight.

Mr. Reid: I'd certainly be glad to accompany you on that.

Hon. Mr. Bernier: I'll make a point of having you with me.

Mr. Reid: All right.

Hon. Mr. Bernier: How will that be?

Mr. Reid: Thank you.

Mr. Stokes: You've got mounds in your riding and now you want holes.

Mr. Reid: Hills and valleys.

Mr. Wildman: Mr. Chairman, I would like to ask a couple of questions regarding quotas on eastern Lake Superior.

Hon. Mr. Bernier: Quotas on Lake Superior? For lake trout.

Mr. Wildman: Yes. I'm wondering, with the chub fishery that is coming in now, whether this ministry in the future will be looking at somehow determining what number of commercial fishermen are going to become involved. When you have quotas on one species and then people shift to another and make an investment then perhaps you get over-fishing in the other species.

How is the ministry looking at handling this kind of potential problem, which is sort of a vicious circle? I don't have any answers for it. I'm wondering what your feelings are on it.

Hon. Mr. Bernier: Before I ask Mr. Loftus to give you the technical details, we've been looking at it for some considerable time and working very closely with the biologist on the quota idea—going in that direction as a management method. In many instances over the years licences have been given to commercial fishermen for X number of yards of net—2,000 yards or 1,000 yards. Some used the full quota, others did not. Some fishermen were more efficient and more energetic so their catch with 1,000 yards was far greater than the guy with 2,000. He was that more efficient.

But it didn't give us a good handle on the amount of fish that the individual fisherman could really harvest as it relates to the acreage or the size and the reproduction quality of that particular lake. Now we're doing a much closer management of the resource and we've made a first attempt in Lake Erie. That was our first thrust with regards to quotas as related to pickerel. When we explained the situation to the commercial fishermen there they accepted it; they fully realize that we have to go in this direction if we really are going to manage the resource—that a lake so large, of so many acres and under such conditions can produce and support so much fish. From that we know we can harvest so many pounds of fish. That is the direction our thrust is taking.

Hopefully as we move down the road we will be able to apply the quota system in the bulk of the larger lakes in the province of Ontario. We're asking for the co-operation of the commercial fishermen. In some instances we have to realize that there will be a slight hardship for a period of time but,

here again, it is the management of the resource and it's a guarantee that that resource will be there for a longer period of time. There will be some short-term problems but the long-term benefits are substantial.

Mr. Wildman: What problems do you see when you get into a quota situation? Does it sometimes work out that it is a sort of first come, first served basis—whoever gets out there and fishes out as much as he can could fish out the quota, is that the possibility or not?

Hon. Mr. Bernier: No, that's not it. Maybe Mr. Loftus could give some details on how we divide it among the fishermen who are actually involved.

Mr. Loftus: The field staff are working very closely with the commercial fishing industry in order to resolve this sort of real serious problem. The starting point that we are trying to achieve again essentially in consultation with the commercial fishermen and with the data that we have is estimating the size of the resource we can afford to take. We're not as good at this as we would like to be. We're reasonably good with lake trout. In the case of herring I think we have learned as we have gone along, and the numbers that have been assigned essentially to licences or to commercial fishermen—in some cases as individuals—have worked reasonably well and the herring stocks have stayed relatively constant.

The chub stocks are another question and we are working in the same direction. We are not satisfied yet that we have good estimates of the numbers that we can take. We are keeping closely in touch with our American friends, who have had some rather bad experience with overexploitation of chub stocks.

In the overall, when we get a little further down the road we believe that a fisherman, depending on his location, may we'll have an allocation of a mixture of resources—in some cases whitefish, in some cases chub or herring and lake trout—and this allocation will have been arrived at in consultation with the fishermen themselves and having in mind the maintenance of natural reproduction for each of the stocks.

Mr. Wildman: In a situation where you get into a quota allocation, what's to prevent the big operator just going in and getting the most and hurting the small operators?

Mr. Loftus: There is a technique by which this can be controlled. Whether it is a tech-

nique that is entirely acceptable to all the fishermen is perhaps still open to question. It is allocation on a fisherman-by-fisherman basis. Or you can tackle it on an area basis. These are things we are trying to work out with the commercial fishing industry.

Mr. Wildman: In eastern Lake Superior you are working on an area basis, aren't you. Is that the approach you are taking?

Mr. Loftus: That's correct, yes. And an individual fisherman quota within a broad area. You may have three or four fishermen within the area.

Mr. Wildman: Do you have any idea when you will determine whether you are going to go for a quota on chub? When will you have done the studies to determine that?

Mr. Loftus: The studies essentially are going to be undertaken in co-operation with the commercial fishermen themselves, and we are going to learn as we go. In that process I hope we will come up to the appropriate harvest level rather than going in too heavily at first and then wishing we had worked backwards. The chub fishing in Lake Superior at the present time is strictly on an experimental basis, partly because we want to be sure that we fish chub without injuring or causing undue catches of small lake trout.

Mr. Wildman: I just have one other question in regard to commercial fishing. I understand that commercial fishermen on Lake Superior are not supposed to fish within 1,000 yards of the mouth of a river. Is that correct? That is, they're not allowed to set their nets within 1,000 yards?

Mr. Loftus: I'm sorry, I know that is the case for some rivers, but I will have to check whether it is the case for all rivers.

Mr. Wildman: All right. I am wondering how the ministry officials—COs or whoever does it—check that. How do they know whether it's 1,000 yards, 1,500 yards or something else? How's it done?

Mr. Loftus: That is done by local conservation officers with whatever facilities they have, and it varies at different locations. There are some parts of that shore where it is a little difficult to get at, particularly in the Puckasaw area, for example. By and large, I have the feeling from the field that we don't have too much difficulty with that regulation.

Mr. Wildman: I had one experience with it this summer where apparently it took the

CO two hours to measure that so he would be sure. I am glad he was trying to be sure, but it seems like an awfully long time to have to check to make sure of the distance. He didn't have—he was by himself in the boat for one thing.

Mr. Loftus: It's a very difficult thing to do unless you have some pretty sophisticated radar or electronic gear to measure distances. We're not equipped so it's a matter of estimating.

Mr. Wildman: Is it correct that the ministry has a regulation that you should not fly over Lake Superior in a one-engine plane?

Hon. Mr. Bernier: That wouldn't be a regulation of ours. That would be the Ministry of Transport.

Mr. Wildman: Is that correct?

Hon. Mr. Bernier: I don't know. I've never heard of that.

Mr. Wildman: I understand from people in the area—

Hon. Mr. Bernier: It would be foolish.

Mr. Wildman: It makes sense to have a two-engine plane over Lake Superior, I would think, in case one engine conks out, if it's a MTC regulation. At any rate, I understand there aren't any two-engine planes in the Sault Ste. Marie district of MNR.

Hon. Mr. Bernier: I've flown many times from Sault Ste. Marie to Thunder Bay and to other areas and we've always gone along the north shore. I've never taken a single-engine airplane over Lake Superior.

Mr. Wildman: Yes. My question is how on earth—

Hon. Mr. Bernier: I have a little background in flying.

Mr. Wildman: —if they want to check the distance from the shore at which nets are being laid without having to go through a long process of measuring, wouldn't it be nice if they could fly out over the lake? But they can't unless they hire a private plane which has —

Hon. Mr. Bernier: Our airplanes go over the lake. We have float-equipped airplanes.

Mr. Wildman: But they won't fly over Lake Superior in a one-engine plane.

Hon. Mr. Bernier: If they're checking 1,000 feet from shore, they're not that far from shore.

Mr. Wildman: They've been told they're not supposed to go out over it. That's what my information is.

Hon. Mr. Bernier: It's all in the way you define that. By fly over, I was thinking about the middle of the lake.

Mr. Wildman: I understand. I agree with what you're saying. Is there any way we can find out if they're allowed to fly over—

Hon. Mr. Bernier: I don't know of any direction. I think our pilots just practise common sense and don't go out. Mr. Herridge, do you have any comment on that?

Mr. Herridge: I think the practice of our pilots and our staff would be that single-engine planes within a mile or two of shore does not represent the kind of hazard which is being spoken to in the inferred regulations, if they exist, of MTC. Flying from Sault Ste. Marie to Thunder Bay in a single-engine plane on a straight line path would be something you'd want to think about.

Mr. Wildman: If someone wanted to go out and check the chub fishery, which wouldn't be within 1,000 feet—it would be farther out, normally—he could fly out over the lake to look and see what was going on?

Mr. Herridge: What I'm saying is that traditionally our single-engine float-equipped planes have been used for monitoring any type of activity along the shoreline. It gets to be a judgement call on the part of the pilot as to how far out from shore he wishes to go. Earlier you were talking about the distances from shore at which nets may be set and I suspect that type of thing might be satisfactory. If you're getting well out over the body of the lake, then it's a judgement call on the part of the pilot.

Mr. Wildman: My understanding is that in those cases, the pilots have judged that it doesn't make sense to go out there in a one-engine plane and I would agree with them. As a result, the biologists have to request money to hire a private plane so they can fly out there because there are no two-engine planes available. I'll leave it at that.

Mr. Herridge: I think we could certainly look into that particular problem. I've never heard it raised by our people as a problem. As you know, we do have a very limited number of Twin Otters—

Mr. Wildman: In Thunder Bay and Sudbury?

Mr. Herridge: They move around; they can be moved around. I have a private feeling that with two-engine planes you double your chances of engine failure but you can take that—

Mr. Wildman: Personally, I'm not interested in flying out there.

Mr. Herridge: It's done all the time. As the minister says there's a lot of exercise of good judgement on these things. They are float-equipped and a landing on Lake Superior is not always hazardous.

Hon. Mr. Bernier: I might mention, for the benefit of the members, that in this vote you're voting \$100,000 for the Fish for Food programme in the Whitedog and Grassy Narrows areas, in case there's a question about that. There's \$100,000 in this vote.

Mr. Haggerty: I want to direct a question to the minister—I didn't want to get into this discussion this morning—which relates to the Lake Erie fisheries management plan. This relates to the number of hearings the management board or the ministry staff has held throughout the Lake Erie basin and it relates to the commercial fishermen.

In their management strategy scenarios I was concerned about catch control strategy, and one of the suggestions was: "The first step in this control strategy would be to freeze the number of licences issued annually and to refuse to reissue those licences not actively used by the licence holder."

[11:45]

Hon. Mr. Bernier: I think the attitude there is to not encourage any new licences and get some amalgamation of the present licences. In other words, if there is one commercial fisherman not using his licence, not actively engaged, rather than encourage a new licensee, we would encourage some other commercial fisherman.

Mr. Haggerty: How many licences would be in this category if there are persons holding licences who are not using them for fishing purposes—either their vessels are laid up or—

Hon. Mr. Bernier: Can you get some figures on that, Mr. Loftus?

Mr. Loftus: I am sorry, we don't have hard numbers on licences issued and not in use at the current time—

Mr. Haggerty: There must have been some opinions expressed at these hearings, so there must be a number of them then.

Mr. Loftus: On Lake Erie?

Mr. Haggerty: On Lake Erie.

Mr. Loftus: There are a few on Lake Erie. There are more on some of the other lakes. I could certainly dig up those numbers and make them available to you.

Mr. Haggerty: How effective is this board that you have to hear the appeals relating to issuing of licences? I understand that there is some difficulty in this particular field in that maybe one or two individuals seem to be getting all the licences and there seems to be perhaps a monopoly in these licences by certain fishermen.

Hon. Mr. Bernier: The hearing board under the Fish and Game Act hears appeals against that specific Act where an individual has been denied a licence. They hold hearings on a very, very regular basis—

Mr. Haggerty: Continuously. Are their decisions upheld?

Hon. Mr. Bernier: Yes, I think we accepted them all. Yes, we have accepted them all, I have just been told. I might say that there is one giving them some concern.

Mr. Haggerty: Maybe that is the one that I have in mind.

Hon. Mr. Bernier: Mr. Sargent, Mr. Lee.

Mr. Haggerty: Up around Belleville, in that area?

Hon. Mr. Bernier: Tobermory.

Mr. Haggerty: I thought there was one in Belleville, or in the Trenton area.

Hon. Mr. Bernier: They made a recommendation; I accepted the recommendation; they have reviewed the information provided to them and now they are having second thoughts. But it is up to them; I accepted their recommendation.

Mr. Haggerty: Are you considering quota management on the amount of fish being caught in Lake Erie at the present time?

Hon. Mr. Bernier: A quota? We have a quota now on pickerel at the western end of the lake; 400,000 pounds for the Wheatley-Kingsville fishermen. That is the first step we have taken with regard to a quota in that area for that species.

Mr. Haggerty: Is there any trawling being carried out in Lake Erie now?

Hon. Mr. Bernier: Yes, there is trawling for smelt. There are some very large trawlers working out of Wheatley.

Mr. Haggerty: Do they catch other fish besides smelt though?

Hon. Mr. Bernier: Maybe Mr. Loftus can give us that technical information. Do the trawls catch other than smelt?

Mr. Haggerty: I imagine you would catch eight-inch perch too, wouldn't you?

Mr. Loftus: The trawling gear is amazingly selective for smelt. There have been trials to see if perch could be caught in significant quantities in the trawling gear or in modified trawling gear and by and large this was unsuccessful because the perch don't school to the same extent as smelt. There are some other species caught incidentally in smelt trawls, but the numbers—

Mr. Haggerty: Are they in large numbers say pickerel or perch?

Mr. Loftus: No. The trawling areas are essentially quite separate. When you are trawling for smelt you are really not in the pickerel area and there are very few, if any, pickerel taken in the smelt trawls. There are some perch taken, but in relatively small numbers.

Mr. Haggerty: Regarding some of the restrictions that have been applied to the Lake Erie fishermen this summer related to applying the smaller-sized nets, some of the fishermen have laid up their gear for maybe a couple of months. There is a difficulty for the persons employed in the industry to collect unemployment insurance. Have you given any consideration to that?

As I understand The Unemployment Insurance Act, I think section 21, it only spells out a certain time, from December to May 1 or something like that, and if there is a layoff in that period of time there is no unemployment insurance that they can collect. Have you made an effort at all to Manpower in Ottawa and the Unemployment Insurance Commission to change that regulation at all? If you are a Great Lakes seaman you can draw unemployment insurance any time, even under the specific section 21, I guess it is, covering December to April or something like that. If the vessel is laid up any time during that period from April to September or October they can collect unemployment insurance.

Hon. Mr. Bernier: Yes, Mr. Chairman, I did send off a very pleading request to the minister responsible in Ottawa to re-examine the assistance to the commercial fishermen as it related to inland waters. In view of the problem we were having in Lake Erie and our new management thrust, economic problems were being imposed on the commercial fishermen; income, of course, would be curtailed to a certain amount which would, in turn, affect their contribution to the unemployment insurance fund, and would he consider relaxing, for at least this year and maybe next year, some of the conditions. He replied in the negative, but I understand there have been some minor adjustments. I am not sure exactly what they were, but there was some changing of the dates with regard to benefits for commercial fishermen and that did help, but it was a little late in coming, I have to admit that.

Mr. Haggerty: I had an invitation to attend some of these hearings but I suggested there should have been a hearing held in the city of Port Colborne. There are a number of fishing vessels out of the harbour at Port Colborne—I think there must be eight or nine in that area around the eastern part of the lake basin there—and I thought perhaps that they should have held a hearing there, instead of—where was it?

Hon. Mr. Bernier: Kingsville? Wheatley?

Mr. Haggerty: Wheatley, down in that area. I thought they should move up to the other end of the lake too, because there are quite a number of fishermen in that particular area.

Hon. Mr. Bernier: I met with the Port Dover fishermen in my office along with Mr. Miller and Mr. Makarchuk.

Mr. Haggerty: They were rather uptight about the controls that were applied without any regard to their income. It has a severe impact on it.

Hon. Mr. Bernier: I think it's fair to say that the commercial fishermen were aware of our desire to go in this direction. We indicated it to them well in advance of the time that we would impose these restrictions. In fact, I guess what really prompted it was the resignation of one of our better conservation officers in that area, saying he was not getting the support of the courts in applying the regulations. He became very frustrated. This brought the thing to light to us.

Mr. Haggerty: Has your staff given any consideration to putting a ban for a couple

of months on fishing on Lake Erie, particularly in the hot weather? Once the fish are caught in the net out there, the water is pretty warm and I know in the past they have had difficulties in keeping them.

Hon. Mr. Bernier: There are certain restrictions with regard to harvesting seasons. We have not thought of a ban, per se.

Mr. Haggerty: I was just thinking of the hot weather. If they don't get out within 10 or 12 hours the fish just pretty well spoil. This is pretty warm water that the nets are set in.

Hon. Mr. Bernier: Most of the rigs are pretty well equipped with ice, for when the fresh fish is brought on, but as you correctly point out if they can't get out there that creates a problem.

Mr. Haggerty: This is right. Particularly when you get a storm or high winds out there, it may be two days before they can get out and there's a loss of income and the catch is destroyed too. I was just wondering if anybody at these meetings had suggested that?

Hon. Mr. Bernier: That has never been brought forward with any enthusiasm.

Mr. Haggerty: I think the fish, particularly at that time of year, are not of the best quality, let's put it that way.

Hon. Mr. Bernier: I would suspect that loss is pretty minimal if they didn't bring it forward in that suggestion.

Mr. Haggerty: They have to travel from Port Dover or Port Colborne and even from Port Maitland to Wheatley, that's where the processing plant is, and it may be about two days. Of course, they move them, I think, in refrigerated trucks now so perhaps there is not that much of a loss. Those are all the questions I have, Mr. Chairman.

Item 3 agreed to.

On item 1, mineral management:

Mr. Laughren: I am happy that we have finally arrived at the vote on mineral management. I will take the title mineral management literally and talk in pretty broad terms about mineral management in Ontario.

I know it's a \$2-billion business in this province and, as such, the members of the committee would not disagree as to the time that should be given to discussion of mineral management on this committee. When one compares the value of mineral management

with some of the other votes on which we have spent considerable time, I am sure it is only fair that we take a considerable length of time in this area.

I see the whole question of mineral management at two different levels and I don't think the minister does. One level is highly ideological—namely, the ownership of those resources—and the other is the supervision of the exploitation of those resources.

That's how the minister, I believe, sees his role. I think he genuinely sees his role as supervising the extraction and exploitation of resources whereas I can't see it that way. I see his role that way but I think the whole ownership of resources is something we should talk about more often. I don't expect to convert the minister completely in any one set of estimates but I can assure you I feel most passionately about our resources. It's not something I feel that way about because it happens to be the policy of my party. There are many policies of the NDP I am not passionate about but this is one on which I am.

Mr. Reid: Tell us some of the ones you are passionate about.

Mr. Laughren: This is it.

Mr. Lane: Should you be passionate in here?

Mr. Laughren: Yes, you should. When you are talking about non-renewable resources and you come from the Sudbury basin you must feel passionate about non-renewable resources because of what is happening.

I think whenever we do talk about public ownership of our resources the minister reacts in an almost scornful way and almost at one with the Ontario Mining Association. I don't want you to read anything into that—that they act as one—but nevertheless their reaction is strangely similar.

I wish the minister would cast aside his prejudices and think about the ownership of resources in a very rational way. I am going to quote from one or two of his speeches—which always delights cabinet ministers, I

know—I think he would agree that we really cannot tax the mining industry properly. I don't think it's possible to tax them because if you tax them too stringently you end up with the problem of lack of development and lack of exploration and high grading of the ore. There's a limit to which you can tax. Because of the foreign operations of the industry you end up being used as a pawn in taxation policies and you end up having your bluff called.

You end up—if I could be most ungenerous—with terms like corporate blackmail when they just lay it on you that either you change your policy or they will lay off workers, will cease development and even cease production. That's why I think it is very difficult to tax the mining sector and that is one of the main reasons I opt for the public ownership.

I touched on the third-world activities of the industry. I think that's another reason you cannot sufficiently tax them and why the public or social ownership of them really is the only logical route to go with non-renewable resources.

When you talk about the resource corporations in Ontario, you are really talking about trans-national corporations. They have gone beyond time and they have gone beyond space because space means nothing. They salute a lot of different flags and we are just one of many. They are not hemmed in at all by our borders or our laws.

I can see before I go any further that the Chairman is getting itchy with his gavel. Would you like to adjourn?

Mr. Chairman: It being 12 o'clock we will adjourn until 1.

Mr. Laughren: Until 1?

Mr. Chairman: It was agreed last night we would meet from 11 to 12 and from 1 to 6.

Mr. Laughren: Thank you, Mr. Chairman.

Mr. Chairman: We will resume again at 1 o'clock.

The committee recessed at 12 p.m.

CONTENTS

Wednesday, November 3, 1976

Resource products programme	S-2595
Commercial fish and fur	S-2595
Mineral management	S-2602
Recess	S-2603

SPEAKERS IN THIS ISSUE

Bernier, Hon. L.; Minister of Natural Resources (Kenora PC)

Haggerty, R. (Erie L)

Lane, J. (Algoma-Manitoulin PC)

Laughren, F. (Nickel Belt NDP)

McNeil, R. K.; Chairman (Elgin PC)

Reid, T. P. (Rainy River L)

Stokes, J. E. (Lake Nipigon NDP)

Wildman, B. (Algoma NDP)

Ministry of Natural Resources officials taking part:

Herridge, A. J., Assistant Deputy Minister, Resources and Recreation

Loftus, K. H., Director, Sport Fisheries Branch



Government
Publications

Legislature of Ontario Debates

SUPPLY COMMITTEE—2

ESTIMATES, MINISTRY OF
THE ATTORNEY GENERAL

OFFICIAL REPORT — DAILY EDITION

Third Session of the 30th Parliament

Wednesday, November 3, 1976

Morning Session

Speaker: Honourable Russell Daniel Rowe

Clerk: Roderick Lewis, QC

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CONTENTS

A list of the speakers taking part in the debates in this issue of Hansard appears, in alphabetical order, at the back of this issue.

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LEGISLATURE OF ONTARIO

SUPPLY COMMITTEE

WEDNESDAY, NOVEMBER 3, 1976

The committee met at 10:10 a.m.

ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL (continued)

Mr. Chairman: I am chairman and also the NDP critic. Speaking as chairman, not as critic, I find—and I'll make no bones about it—the absence of members on important estimates of this kind something to be deprecated. One of the things that has irritated me down through the years, Mr. Attorney, is that the Liberals have 12 lawyers; we have two. I don't want to direct my fire to the Liberals particularly; it's just that interest in these estimates is negligible. I would think somebody could turn up who had some legal background. Eddie Sargent and I are here alone this morning—I want that to be in Hansard—and we're supposed to carry out a mandate on behalf of the whole province.

Hon. Mr. McMurtry: I certainly regret, Mr. Chairman, that the Attorney General has not been able to attract a larger audience from his colleagues but it's been my experience that you two gentlemen often make up for a large crowd.

Mr. Chairman: Your geniality this morning, after we've all been awake all night listening to that crazy American election, is more than I can bear. All right.

On vote 1202, administrative services programme; item 2, financial management:

Mr. Chairman: There's just one point on that vote as far as I am concerned and that's with respect to the business—what I object to here is that in the previous estimates and in the red book the figures on these estimates come out differently. In your blue book that you've given us, at page 20, the figure shown for the 1975-76 estimates with respect to services is \$144,000, and it comes out here \$143,000. I think Mr. McLoughlin knows what I'm after here.

The figures are altered in this particular financial management picture from the esti-

mates presented in previous years as printed in the book over against the estimates this year—not with respect to the projected estimates, I can't object to that, but with respect to the actual figures set forth in the previous year.

Mr. McLoughlin: In 1975-76?

Mr. Chairman: Yes, 1975-76 against 1976-77. They don't report them accurately from estimate book to estimate book.

Mr. McLoughlin: I'm sorry, I can't see—I haven't got a copy of last year's book.

[10:15]

Mr. Chairman: Let me see. The estimates for financial management, wages and salaries—not wages and salaries; take the services. In the 1975-76 estimates, as reflected in your book here—this is the blue book you have given us this year—its shows \$143,800 whereas in the estimate book for that year it shows \$139,000. This is a small point and—Mr. Renwick, I wonder if you would take the chair?

Mr. Renwick: Certainly.

Hon. Mr. McMurtry: It'll be a great pleasure to be chaired.

Mr. Lawlor: That's not the intent, but if it has the effect—Do you follow me?

Mr. McLoughlin: Excuse me, are you looking at the 1975-76 estimate book?

Mr. Lawlor: Yes, with the 1977.

Mr. McLoughlin: With the 1977.

Mr. Lawlor: I am saying the figure given as the projected estimate in the earlier book over against what you said the projected estimate was in your blue book—which you recently handed to us—is off. I wonder why? This happens throughout but I am only testing this one case. It happens a number of times and in a way I object because this doesn't give us consistency. Who has the authority to manipulate these books, is what

I am really saying? Who's juggling the ledger?

Hon. Mr. McMurtry: I'm sure, Mr. Acting Chairman, that nobody is manipulating the books or juggling the ledger and if there is any misprint I would certainly like to see it rectified.

Mr. Lawlor: I suspect what's happened is that moneys have been taken out and put somewhere else but it's not too clear.

Mr. McLoughlin: What happened was this: In the 1975-76 estimates record management programme was included under administration. That branch was transferred into financial management, into operations.

Mr. Lawlor: Sorry. Into operations?

Mr. McLoughlin: In to operations which is a part—

Mr. Lawlor: Where's that?

Mr. McLoughlin: It is part of financial management.

Mr. Lawlor: It's part of it?

Mr. McLoughlin: It's purchasing, records management, that type of item.

Mr. Lawlor: How many branches would financial management have?

Mr. McLoughlin: Financial management is a branch in itself.

Mr. Lawlor: Right.

Mr. McLoughlin: It's broken into four main areas: One we call operations, which deals primarily with purchasing, records management, forms design, things of that nature; the other sections in it are what we call the expenditure section which deals with accounts payable, accountable warrants, things of that nature; payroll, which is another large section; and then the section we refer to as the budget section, which deals with the preparation of estimates, analysis of costs and so on. One of the subsections of that branch is this one.

Mr. Lawlor: Listen, in future—I have given the ministry credit in previous years. For the first time two years ago the red volume, as I call it, was given to us to flesh-out and give us an understanding, an insight, into the estimates. You have done it again this year. This was extremely valuable at the time; this is not nearly so valuable now. It is highly repetitive of the previous one, although it sets the comparative figures for previous years. I do that for myself anyhow.

What we don't get are little things. I think you could give us, perhaps in future years, more detail, break it down, break down under financial management the sections or subsections under that, just to give us an insight as to how that particular branch works.

Mr. McLoughlin: All right.

Mr. Lawlor: If you could consider that, I think that would add something to it, otherwise you are printing a good deal of paper here which probably in a cost-benefit ratio doesn't justify itself.

Mr. Callaghan: Pardon me for a second, Mr. Lawlor. We prepared that book to assist the members of the committee three years ago, and we've developed it over the last couple of years, we thought in a helpful manner, but to break it out any more, we just don't break it out any more, we don't even have it ourselves broken out any more. I am not sure I quite understand what you mean.

Mr. Lawlor: It's just been pointed out to me that there are four subsections within this particular vote; four different areas completely.

Mr. Callaghan: What are you referring to there as four areas?

Mr. McLoughlin: They are functional areas of the functions that are carried on within the branch. We don't break it down ourselves within the branch, as to say, the expenditure section and the payroll section as such. I mean in an accounting office we may use people in payroll at one time, or in accounts payable; we change the structure as demand requires to some extent, by moving staff in various areas. But those are sort of the main functions that are carried on within that branch.

Mr. Lawlor: Yes, but as you see, we have gone into this thing because I was questioning figures, and then why the figures didn't emerge, and then we got into some records area which was moved from here to there.

Mr. McLoughlin: Mr. Lawlor, we can certainly provide that type of information. If we do transfer a function from one branch to another, we can certainly indicate that kind of information. There will be very little of that now or in future years.

Mr. Callaghan: I thought we were really expanding the book to assist you. I was rather surprised at your comment. We have included analyses of increases and decreases

for the estimates, what their attribution is, stuff we have never done before, but to be told now that the book is no assistance, Mr. Lawlor, is really quite—

Mr. Lawlor: I didn't quite say that, Mr. Deputy. I said it wasn't of the same magnitude of assistance as the previous book given to us along the same lines. I don't want to depreciate your books, nor do I think your sensitivities, à la Jane Austen, are all that much to the surface. You don't have to take umbrage at every minute criticism of your wrtched department. If you are operating pretty well, and you are half way through the estimates, you have done cavalierly, for heaven's sake.

Mr. Callaghan: It's just that I take your comments very seriously.

Mr. Lawlor: Okay. How about wages and salaries? It's reflected here—hold it for a second. In the previous estimates book, it shows that wages and salaries on estimate from the previous year, at \$1,131,900. As it emerges through your blue book now, that figure changes to \$1,179,400. By what authority can you alter the figure that appears in these earlier books, over to the book being presented to us now; and where is the difference?

Mr. McLoughlin: The difference would be the records management, and as far as the 1975-1976 figures are concerned we show there what has gone on, what has transpired during the year. When the estimates were made up, which would be back in the latter part of 1974 and the early part of 1975, records management at that time was part of programme administration. It was transferred during the year, and then, in order to show comparative figures with the actual, we have transferred the figures in. We haven't altered the estimates in the year of the estimates.

Mr. Lawlor: Is the difference reflected somewhere else in the estimates?

Mr. McLoughlin: Yes, it would be a reduction in programme administration.

Mr. Lawlor: In programme administration. When you do that, would you again, I request of you, reflect that in this information book?

Mr. McLoughlin: Yes, we can certainly do that.

Mr. Lawlor: I want to make reference—I am not quite sure to what—page 43 of the blue book. There has been a reduction in the wages and salaries. This is the kind of thing

that, as far as the nice internal gears of the operation go, gives some insight. You say \$150,300, transfer of 12 articling law students to Crown attorney system, vote 1204, item 2.

Mr. McLoughlin: I can explain that.

Mr. Lawlor: Yes, explain that.

Mr. McLoughlin: At one time we used to provide for the salaries of the articling law students, the 24 of them, all within the vote of the Crown law office. Some of the students are used by the Crown attorney system and some are used by the Crown law office, so for that reason we actually just split them between the two, so we transferred the estimated funds for that out of 1204(1) into 1204(2). If you look, probably on page 45 in the blue book, you will see this figure of \$150,000 coming in for the Crown attorney system.

Mr. Sargent: Mr. Chairman, as I have said many times before, the discussion of these estimates is always about 18 months to two years off the actual so we are just reviewing things of the past. I would like to ask the minister, such things as the dinner for the retiring justice the other day would cost the taxpayers a lot of money; where would that be shown in these estimates as an expense?

Hon. Mr. McMurtry: When these estimates were prepared and the budget was prepared, there was no contemplation that there would be such a dinner, and the decision to hold such a dinner was entirely mine and for which I make no apologies. I can't tell you at the moment what the expense will be. When you have a—

Mr. Sargent: Is it \$30,000 or \$40,000?

Hon. Mr. McMurtry: Oh, no, no, less than half that; probably in the area of \$12,000. As far as I am concerned, for the province not to have recognized Mr. Justice Gale's service to the administration of justice in this province and throughout Canada, which is really almost unequalled in Canadian history as far as I am concerned, would have been shoddy treatment to put it mildly. Not only were we directly recognizing, say, almost unparalleled contribution of our Chief Justice, who served for 30 years as a Supreme Court judge in this province, but indirectly I think it was recognized by the over 200 judges who were there that we were also recognizing generally their contribution to the administration of justice.

I should point out that six of the other provinces felt that the event was sufficiently important to send their Chief Justices, at their expense, to attend this most important func-

tion. All the lawyers in the Legislature, of all three parties, were invited and I was delighted to see that at least three of your Liberal colleagues were represented at the dinner. Mr. Lawlor was there. I regretted the fact that a previous commitment kept Mr. Renwick away. Your colleague in Ottawa, the federal Minister of Justice, attended as did the Chief Justice of Canada.

[10:30]

As I say, I'm personally delighted that the dinner was held because otherwise we would have failed to recognize, as I say, a unique contribution to the administration of justice in this country. If you don't agree then you and I simply have a disagreement and you fail to recognize it. I regret that you have failed to recognize the contribution that Mr. Justice Gale has made.

Mr. Sargent: We're not talking personalities. The fact is, with greatest respect to the justice, I'm saying where does the buck stop? We have one of the most affluent groups in our society sit down to a big dinner; why couldn't you have charged \$50 a plate and given the proceeds to cancer research or something like that?

All through these estimates, Mr. Minister, not only yours—we have one called Transportation and Communications; it's the biggest grab-bag in the world—in your estimates is probably \$500,000 in which you hide things like that. We can't find out what the hell they mean, along with Transportation and Communications. It's a big grab-bag.

My point in picking that out is you really handle your explanations very well but somewhere along the line the buck has got to stop. You make a personal decision whereby you're going to be a big fellow with our money, giving a dinner for them. That's all right but somewhere along the line we have to say, "Look at that item in Transportation and Communications. Where is that hidden?" We never find out. I'll leave that now.

Can I talk about Legal Aid here?

Hon. Mr. McMurtry: We've had many hours of discussion on Legal Aid, Mr. Sargent.

Mr. Sargent: May I ask you? Do you find Legal Aid costs increasing? There is \$18 million here now.

Hon. Mr. McMurtry: Yes and, as I indicated, the actual cost to the taxpayer of this province will be somewhat in excess of that. I estimated the actual cost would probably be about \$23 million for this fiscal year.

Mr. Sargent: I see. So you can see this as an ever-building fund for Legal Aid?

Mr. Acting Chairman: Perhaps I can interject for just a moment. I know that every member of the committee can't be here all the time but I hope you would bear in mind, in your comments on Legal Aid, that we did spend several hours on it. I don't want to cut you off if you have some specific matter which you wanted to raise.

Mr. Sargent: No. Okay; pass.

Mr. Acting Chairman: Perhaps, Mr. Attorney General, I might mention that I spoke with my colleague—I had raised this question a few days ago—about whether we could set aside a piece of time to deal with the racist question. If it was convenient to the committee I was going to ask Mr. Gregory if he'd take the chair and we might talk a little about that topic if that's agreeable.

Hon. Mr. McMurtry: It's certainly agreeable to me.

Mr. Callaghan: Is there any way we could finish this vote then talk about it?

Mr. Acting Chairman: Yes.

Mr. Callaghan: There's nothing in here. This is personnel management, unless you're interested in that, and management audit.

Mr. Acting Chairman: Is there any member of the committee who has any comments on the balance of vote 1202?

Mr. Lawlor: Yes, I have a few comments but I can do them rather quickly I think.

Mr. Acting Chairman: All right; Mr. Lawlor.

Mr. Lawlor: On next vote, the management audit, I have just a general statement. Justice, far from the Legal Aid thing being cut back or restricted, in my opinion, is beginning to level off and statistics do give some indication that the call for Legal Aid has pretty well grown up now. It's taken 10 years for it to do so. The ministry—I'd love to see figures about this some day but not now—to a very substantial degree is self-supporting.

This particular vote involves defaulted fines and licences by which the amount of money brought in, the total reinstatements to September 30, 1976, was \$3.5 million. There is, further, \$2 million outstanding of that. That's a very substantial sum of money

coming in by way of this particular narrow field of fines alone. You take all the fines levied by the courts in the whole diapason of fining, from highway traffic clean through to local municipal bylaw contraventions, and you guys are paying for yourselves, just as the police force to some magnificent degree manages to pay for itself, too. Very often it is—

Mr. Sargent: The \$3 million is paying for what?

Mr. Lawlor: No, this is just one area, a small area of fines. These are highway traffic offences and people's failure to pay their fines. That, as I say, is just one small area. If you sit in the courtroom any day you will see magnificent fines levied left, right and centre. I have never seen final figures on it because all we see in estimates is what we spend.

Mr. Callaghan: The last page of the book will give you some idea. We anticipate \$78,262,000.

Mr. Lawlor: That's \$78,262,000?

Mr. Callaghan: These are all aids to the estimates.

Mr. Lawlor: Pretty good, eh? Almost self-supporting.

Mr. Sargent: You are not saying the minister should be congratulated for that?

Mr. Lawlor: I am saying that because it is so close to being self-liquidating, unlike highways. The cost of Legal Aid wouldn't pay for one mile of Highway 401. There is something picayune about these things. Let's keep some balance and some sense of proportion in the Ontario Legislature. Just one question on this situation—

Interjection.

Mr. Lawlor: Mr. Chairman, we have an obstreperous member at the moment.

Mr. Acting Chairman: I'll deal with him in due course.

Mr. Lawlor: We're trying to finish this rapidly, aren't we?

Mrs. Campbell: There is a conflict of interest between you two.

Mr. Lawlor: The Tories have never been accused of that. Do you have to get re-examined?

Hon. Mr. McMurtry: Mr. Sargent was complaining about the dinner we had last Saturday night, Mrs. Campbell.

Mrs. Campbell: I am sure he wouldn't have had he been there. People who are not invited usually complain and I don't blame them.

Mr. Lawlor: We have people like that, too.

Mrs. Campbell: The Chief Justice belongs to the whole province, and in that I think Mr. Sargent is quite right.

Hon. Mr. McMurtry: He didn't say he wanted to be there. He indicated he wouldn't have accepted the invitation. He didn't say it in so many words but that was the implication.

Mr. Lawlor: I am content on item 3, Mr. Chairman.

Mr. Acting Chairman: Item 3, Is there any other comment on vote 1202, item 3?

Mr. Sargent: Why didn't we have an internal audit on this department?

Mr. Callaghan: Because of all the outside offices which collect fines. We have over 400 offices in the province.

Mr. Sargent: I see.

Item 3 agreed to.

On item 4; personnel management:

Mr. Lawlor: In your report—we haven't got this year's report as such but last year's is available to us—you say personnel management includes the expansion of bilingual services in judicial offices. Could you give us a brief statement as to what this expansion involves?

Hon. Mr. McMurtry: Perhaps Mr. Graham Scott could assist—or Mr. Wright—in respect to the expansion of bilingual services.

Mr. Scott: Yes, the expansion of bilingual services is primarily in relation to the utilization of bilingual forms designed for use in provincial court, criminal division, and the establishment of the pilot project in Sudbury. In addition to a lot of local forms which have been used for some number of years as a matter of custom in some communities we introduced our standard forms such as certain summonses, recognizances and uniform traffic tickets and that sort of thing. They are now being utilized through the Ottawa region—Stormont, Glengarry and through that area—

and in Sudbury. Their use is currently going to be expanded through northern Ontario, Cochrane, Timiskaming and that area.

Mr. Lawlor: Mr. Scott, would you undertake, please, perhaps, to let me see a copy of what they look like?

Mr. Scott: Certainly, I'd be delighted to. We may even have some here somewhere.

Mr. Lawlor: Okay. Thank you, Mr. Chairman.

Mr. Acting Chairman: Any further comment on item 4?

Mrs. Campbell: Yes, since we are dealing with the bilingual forms, while I was very appreciative of the Attorney General's position on the project development in Hamilton of the unified court, I wonder why in this year we're proceeding with project forms rather than at long last developing right across this province in the bilingual area?

Hon. Mr. McMurtry: I think we are introducing the forms not in a project fashion, Mrs. Campbell, but in all areas of the province where there's a substantial franco-Ontarian population. If we created the impression this was a pilot plan, it isn't.

The pilot project Mr. Scott is referring to is a project that I personally felt should be in Sudbury. I felt it was the first project which—it is not a bilingual court; it's a French-speaking court. We think it's important because there are a number of mechanical wrinkles to work out in relation to conducting a French court in Ontario. It's only a pilot project in that respect.

Mrs. Campbell: I'm interested, of course. What is the situation in Ottawa itself? I would think it would have been rather important to set up such a project there.

Hon. Mr. McMurtry: I'd like to respond to that. This is a judgement decision for which I accept full responsibility because I had spoken in Ottawa to an association which is very much committed to bilingualism in Ottawa. I forget the exact name of it; I think it's the Alliance for—it doesn't really matter.

As you know one of the unhappy developments, I think, in the last two or three years has been the enormous backlash to the bilingual programme in certain parts of this country. I think the reaction has been perhaps more intense in Ottawa than in many other areas because of the civil service and the reaction among large numbers of civil servants who resent the programme very

much. They feel threatened by it as far as their own personal advancement is concerned.

In my view it was important that such a project succeed and I felt it should be commenced in an area where there was less of this unhappy feeling and where it could be conducted with less of the emotional atmosphere which, regrettably, is very much present in Ottawa, as I'm sure you know. That is why we moved it, or decided to establish it, in Sudbury not in Ottawa which, in normal circumstances, would have been, I agree with you, the logical place to have commenced such a project.

Mrs. Campbell: My only concern is—again, it goes back to my definition of justice, I suppose, and it does seem to me that justice, like hope, deferred maketh the heart sick. I feel badly that a decision of this kind should be made in such a political environment because I think the rights of people ought properly to transcend these things. However, I can understand what the Attorney General is saying. I just caution that, from time to time, I think, when we make decisions which we all believe to be in the best interests of justice—and not, as I said, a fairer justice—we have to be very deeply concerned about the rights of people. Such a political approach, while it's understandable in a political arena, is to me a very sad commentary.

[10:45]

Hon. Mr. McMurtry: You and I have a fundamental disagreement then as to why the decision was reached. When you say political, I'm not sure what you mean. The decision was made in the interest of the administration of justice. I suppose every decision made by individuals carrying on activities in any area of society in a small "p" political decision as opposed to a large "P" political decision.

The decision was made in order to ensure the success of the project and in order to carry on the project in an atmosphere which was not poisoned by a feeling which was really irrelevant to the administration of justice. The decision was made in that context. If you say that is a small "p" political decision, just as any other decision involving people is a small "p" decision, I will accept that.

At the same time I should like to make clear that in my view the franco-Ontarian minority is receiving justice in this province as is any other. Of course, there are many other large minority groups in Ontario—third-world language groups—who, of necessity,

must rely on our court interpretation procedures when they are not comfortable in the English language. Many of our citizens go into court in our province and the evidence must be translated back and forth, into and from English.

You, as a former judge, would appreciate that there is no way that can be avoided because some of the participants in most areas of the province will be more comfortable in one language; some will be more comfortable in another language. Obviously, the only place where a project such as this can be useful is where virtually all the participants are more comfortable in, say the French language, as they are in some areas of the province. This does occur in some areas.

This has not been attempted before and there are a lot of problems in relation to keeping the records and resources that must be attached to such a court to make it work. It is not a bilingual court—all our courts are bilingual in that sense or multi-lingual inasmuch as we try to provide the necessary translation services. In some areas of the province, say, in the criminal court, for example, you have a judge whose first language is French; and for most lawyers, most of the witnesses, the accused and the police, their first language is French.

It occurred to me that it was an unnecessary interruption, when you could carry on without any difficulty in the French language, to have all the evidence translated as a matter of routine into English for our records. Of course, we have also to be concerned, as you know, with the appellate courts and how the records are going to be kept for them. It's a lot more complicated than it appears to be at first blush, as I have found out. I want to assure you that the decision to establish in Sudbury was made on the basis of the priority of justice and no other priority.

Mrs. Campbell: Could I know the length of this project? How long will it be in place before we will have an assessment which will hopefully lead to some such establishment in other courts across the province?

Hon. Mr. McMurtry: We anticipate about 18 months but it's possible, assuming that we have sufficient resources, that we can establish other courts even before that period, depending on the progress of this project, but we really do have a lot to learn from the—

Mrs. Campbell: I asked the question as a result of the Attorney General's statement that he wanted to have a success in this

court before going into Ottawa or other areas, and I just wondered what we meant by success.

Hon. Mr. McMurtry: Perhaps I didn't word it very correctly. If the objective assessment of the project is that it is not in the interest of justice to carry it into other areas, then we won't do it. I suppose what I meant to say, if I didn't say it clearly, was the likelihood of success would be greater in an area where the climate was not poisoned by factors that really weren't relevant to justice in the proper sense. So if you interpreted from my remarks an anxiety on my part for some sort of personal political success, in respect to that, then I regret the word. I just want you to understand that.

Mrs. Campbell: Oh no. No. That wasn't what I was doing. I was talking about the success of the project, and the determination from that for its extension to other parts of the province. If I made that implication it was not intended. I too would like to see these forms. I am interested to know that now it would appear that we can indeed provide forms in French. As you know, the Liberals have been asking for this, certainly ever since I came into the House, which as you know was in 1973.

Hon. Mr. McMurtry: Yes, I remember the date very well.

Mrs. Campbell: But we were always advised by Attorneys General that there were great problems in translating or in developing the French form. I take it that this Attorney General has been a little more innovative in his approach than previous Attorneys General.

Mr. Scott: If I could just add something along this line. It is, indeed, very complicated. One of the things about Sudbury, quite aside from the question of numbers that may or may not eventually use the court, is the question of the systems and also the question of translation. There's been a lot of work put into it. We even attempted to use the facilities in New Brunswick, where they've recently translated statutes and so on. They still have a horror show there in terms of translation and finding the right words. This is causing problems, not only in Sudbury but, as you may know, there's an experiment at the University of Ottawa, so we're far from out of the woods in the whole area of translation. These forms have been worked on over some considerable period of time and there's still some difficulty with expanding them. The ones that are out now

seem to be working all right, but it's a pretty complex area and it's going to be complex for some time yet.

Item 4 agreed to.

On item 5, programme planning and evaluation, and item 6, systems development:

Mr. Lawlor: In item 5 and item 6, systems development, I have penchant for getting mixed up and maybe I could get straightened out this year shortly. Two kinds of, I call them, systems, one having to do with financial management, the second system having to do with court administration. There are things called Cyclops I and II and that has to do, as I understand it, with pressure on the courts and volume of cases and scheduling and that sort of thing. Which one fits into which, first of all?

Mr. McLoughlin: Programme planning and evaluation deals with the statistical analysis of dollars, workload, and things of that nature.

Mr. Lawlor: Everything.

Mr. McLoughlin: Systems development deals with the mechanical systems that are used, where we computerize a particular area—what's a better way of handling the paper flow, items such as that. Systems development did work recently, for instance, for financial management for our new budgeting and costing system, the actual computerization of that system. Programme planning and evaluation see that we are meeting the objective that we have allotted the dollars to.

Mr. Lawlor: Where is MIS, CIS, and all these?

Mr. McLoughlin: They're in vote 1206. They're court support systems.

Mr. Lawlor: There's a reference on page 44 of your earlier statement regarding a study of delays in criminal courts. "During the summer of 1974, a study was made to determine the cause of delays in the criminal courts. As a result the report has suggested changes that would significantly improve the use of available resources. Action is being taken on the recommendation." Where would that fit?

Mr. McLoughlin: That was work done by systems development. They went into various courts in Toronto—

Mr. Callaghan: Really though, just a minute, if you want to discuss delays in courts, I suggest you do it in vote 1206 and deal with it there.

Mr. Lawlor: Rather than do it under the—

Mr. Callaghan: Systems development really isn't the proper place.

Mr. Lawlor: On these new financial systems, it says: "In October, 1975, a contract was let for a project team to assist the ministry," etc., and the final note is "It is intended a new financial system be programmed by April 1, 1976, for the beginning of the new fiscal year." Is that all in place?

Mr. Callaghan: It's in place. All in operation now. For the first time in 109 or 110 years, I guess, we're now getting monthly reports.

Mr. Lawlor: Listen, there is one thing that is received, and apparently it is voluminous but we never see it and I wonder if you do. I understand the inspector of legal offices gets quarterly reports from all the courts.

Mr. Callaghan: We have an information system that is producing quarterly statistical break-out of the courts all across the province. That's the only quarterly thing we have received from the courts. Is that what you are referring to?

Mr. Lawlor: We are under the statistical data section.

Mr. Callaghan: That's right. The information system produces a quarterly report on all the courts across the province. It's really not that voluminous.

Mr. Lawlor: When I write to you to get a report on the operation of the courts, that's where you go, is it? Is that the idea?

Mr. Callaghan: Well, if you write with reference to a particular court and want to find out what the caseload or backlog is in that particular court, that's where I go, yes.

Mr. Lawlor: All right. Very quickly, you have set up a series of information systems. I am doing both these votes at once, Mr. Chairman. You have the criminal information system, you have a provincial and municipal information system—

Mr. Callaghan: No. The provincial criminal information system is just in its infancy but it's coming along.

Mr. Lawlor: It's at the central west?

Mr. Callaghan: It's in the central west.

Mr. Lawlor: And its operating?

Mr. Callaghan: Yes, it's operating in four counties.

Mr. Lawlor: You call that the PMIS, I take it?

Mr. Callaghan: That's right.

Mr. Lawlor: Then you've got a juvenile information system?

Mr. Callaghan: No, that's just the chief judge's office taking reports from his courts coming in. It is not an automated system at all. It's a manual system.

Mr. Lawlor: Finally you are going to set up a family court information system. Have you been able to do anything there?

Mr. Callaghan: That would be a development of the chief judge's information system. It would be developed when we get to the point where we can implement across the province the existing systems. Each court has different criteria and has needs for different information. At some times it is difficult to pull them all together under one roof.

Mr. Lawlor: Yes. Then you have another system called MBR.

Mr. Callaghan: No, that's a programme of management by ourselves. That's something Management Board tells us we all have to do. They have a propensity to ask us to try to manage courts by results, which is an impossibility, and we keep telling them it is impossible but they don't believe us.

[11:00]

Mr. Lawlor: You are testing two areas: One was the Crown attorneys system, and the second was the Legal Aid Plan. Is that an impossibility, too?

Mr. Callaghan: They have given us a report on that. It's very interesting. We thought one of the ways to demonstrate our position that the courts are really unique beasts from the point of view of management techniques was to let these experts go in, do what they considered to be applicable to beer companies and apply it to the courts. They did so and they produced about a zero, I think. It was very educational for them and they realized that you can't come down and say "We are going to manage the courts by these beautiful management systems." The courts deal with people and human problems and you just don't fit those into a production line.

Mr. Lawlor. Enough, Mr. Chairman.

Mrs. Campbell: I wanted to look at the development of information from the courts and I think Mr. Callaghan has touched upon the difficulties.

Personally, I feel if the information system which I knew is what we have today it is, or was certainly purely a quantitative analysis of the cases before a given court. It told you nothing of what went on in that court. You began to develop in this ministry the situation whereby you really were looking at a judge, for example—again, I am relating it to the court I know best, the family court—and giving some kind of accolade, I suppose, to the judge who was largely dealing with show-cause summonses and had a case load of maybe 30 to 40 cases in a day. Wasn't this the greatest thing since peach ice cream or something.

You weren't looking at the function and the performance in the various areas and you weren't looking at any kind of qualitative analysis. It was terribly misleading and it placed the courts in a system which I said was marketing justice.

(Therefore, unless that kind of statistical information is improved, this is going to continue to be seen as a form of trying to market justice and trying to get more cases through in a day; trying to get people to reach for the heavy case load of show-causes rather than, for example, a very low case load in proceeds where you might have 30 or 40 witnesses. It didn't make any sense to me and I wondered what your thrust is today because you can't compare apples and oranges, really, in the delivery of justice.

Can I know whether you are developing your information to be something more than this quantitative analysis? I think you are right, that they were trying to get us to function, when we had meetings with somebody from a beer company in Scotland—I shouldn't say beer; it was probably scotch or something. Anyway, somebody from a distillery in Scotland was trying to tell us how to run our courts and it just didn't make a lick of sense.

Mr. Callaghan: I think, Mrs. Campbell, they were starting at the wrong end.

Mrs. Campbell: Indeed they were.

Mr. Callaghan: You have to define the types of things you want to find out and then you try to develop a system which will produce them.

(What you want to find out today, for instance, is I would like to know how many cases in a particular county are taking beyond 90 days for completion; that kind of information. There are a number of items like that which I think are absolutely essential to keep track of. You are keeping, in a sense, a quantitative effect but you are really keeping a

substantive matter under review at all times, i.e., how many people are spending longer waiting for their trial to come up in county A than in county B.

That kind of information system can be developed if you have the money to develop it. I think what we have started to do in central west is develop that kind of information system and when we get to the central west project, I will have them show you the type of information system we have there. I think you will find that the information that's coming out is very practical both for judges and for people who have to try to help them with their administration.

In the other types of systems a lot of people I think were carried away by efficiency terms and efficiency technology and they thought existing technology could simply be applied to a court system. It just doesn't work; it's the kind of thing that was ineffective.

The system we are trying to produce now, and I think we have been reasonably successful, produces information which indicates how many remands take place with reference to a particular case; how long cases are in the system; and the nature of the cases in the system—this kind of information. This is information which is practical and pragmatic; it is not theoretical.

It is information based on the existence of the present system and the way that system operates. It will show you the weaknesses in your system if you can develop your programme with sufficient money and capital. These things are not cheap. It takes time and thought to develop them but if you can develop them to the point where they are applicable across the province, you can get an idea of what's happening in all courts and then you get an overall picture. It is that type of information based on the existence of the present system and it will show you the weaknesses in your system and where you can change it.

The other thing was sort of bringing in a technology which was applied in manufacturing or industry, having people sit with stop watches because they used to do it when the cars went by and the guy was putting a bolt on the left wheel. That just didn't apply. It produced nothing.

Mrs. Campbell: Well, as you know—

Mr. Callaghan: We reversed it and now we are producing a system which will be quite helpful, I think.

Mrs. Campbell: As you probably know, and I think I discussed it with you earlier,

the judges were clocked in the family court in Toronto as to how long it took them to handle a case. It was just outrageous.

Mr. Callaghan: None of that goes on now.

Mrs. Campbell: Are you measuring at all or have you developed any methodology to measure such things as recidivism, particularly with juveniles, in your statistical information?

Mr. Callaghan: No, we are not that far down the road. That will come eventually. That will have to tie in with criminology, though, because you will have to have a criminological study when you get into that area. That's a different phase of information. Correctional Services are the people who really have the facilities for producing that type of information more than we do.

Mrs. Campbell: I would question that, Mr. Chairman.

Mr. Callaghan: They have more facilities to produce it than we do; let's put it that way.

Mrs. Campbell: I have lost hope if that is the case. Thank you.

Mr. Sargent: Mr. Minister, who is the No. 1 in drawing up a budget in your ministry?

Hon. Mr. McMurtry: Mr. McLoughlin, who is our general manager; the gentleman on the far end of the table; Mr. Brian McLoughlin.

Mr. Sargent: Mr. McLoughlin, we have ongoing programmes in every department, especially when we hear them talking about things like programme planning and evaluation and systems development. We have here \$111 million you are after in these estimates. The fact is we have a 15 per cent increase this year in your requirements or a 25 per cent jump in two years in your department. Do you have zero budgeting principles? In every vote here, do you have a zero budgeting system?

Mr. McLoughlin: The growth over the last two years has been mainly due to inflation. In our budget, about 70 per cent is salaries and there has been a general increase in services and things of that nature of about 10 per cent a year. We have very little for work load increase. We have, in this particular budget, about \$7 million for work load increase, which is mainly in the court area, and that was for additional staff and costs

which go with that staff. The rest of it really is just keeping pace with inflation. For instance, we are very heavy users of paper in the sense of court forms and things of that nature and, of course, the price of paper is escalating at a terrific rate. We are really absorbing this.

Mr. Sargent: You set up a programme. When it has done its job, do you abolish it? Is it ongoing?

Mr. McLoughlin: We have very few programmes of that nature, that are of a project nature. Our largest, being the courts if you want to take that, is open ended.

Mr. Sargent: So, in effect, you say it's a people business you are in.

Mr. McLoughlin: Very much so, very definitely.

Mr. Sargent: I would ask the minister then, Mr. Chairman, the backlog in the courts, is there any money here for that?

Hon. Mr. McMurtry: We are going to come to that.

Mr. Sargent: I am talking about budgeting.

Mr. Lawlor: We agreed we would get on with a certain—

Mr. Sargent: Just a minute, Pat. Don't you be the deciding factor. I am talking through the chairman here.

Mr. Lawlor: On a point of order. We will be coming to the courts, and if Mr. Sargent will be slightly patient we will deal with these matters—

Mr. Sargent: Mr. Chairman, this guy, Pat, wanders all over the whole map—

Mr. Lawlor: We have agreed on how to handle this.

Mr. Sargent: Well, I am just a body here and I want to find out something—

Mr. Lawlor: For heaven's sake, you think you can take over. You are not going to be permitted to.

Mr. Acting Chairman: I think you have each had equal time.

Mr. Sargent: You are going to stop me, are you, Pat?

Mr. Lawlor: I am going to do my best.

Mr. Sargent: Well, maybe I should leave then.

Mr. Lawlor: Well, if you want to, goodbye.

Mr. Acting Chairman: The question of—

Mr. Sargent: I just asked, you don't have a zero budgeting principle per se?

Mr. McLoughlin: No, it just wouldn't work.

Mr. Sargent: Is it all right, Pat, if I ask that?

Mr. Acting Chairman: Are there any further questions—

Mrs. Campbell: Could I ask for a point of clarification, Mr. Chairman? The question has been asked about the approach to budgeting and the answer has been given that they are dealing with the courts and that the increases have been largely the result of inflation. I take it, however, that since inflation hasn't caught up with either jurors or with witnesses, I assume that that will be developed as we get to the courts themselves. Is that correct, Mr. Chairman?

Mr. Acting Chairman: Yes, I believe that to be so.

Items 5 and 6 agreed to.

Mr. Acting Chairman: I would appreciate it, Ms. Gillian Sandeman, if you wouldn't mind taking the chair for a few minutes.

Ms. Sandeman: Certainly, Mr. Renwick.

Mr. Renwick: Madam Chairman, I appreciate the courtesy or co-operation or concurrence of the other members of the committee in agreeing that we should set aside a brief period of time to deal with questions of racism and hate. I don't think we will solve the problem by spending an inordinate amount of time on the question but I did want to exchange some views with the Attorney General and with the deputy, because I want to pick up a thought which came from the Deputy Attorney General over the course of the time that I have had occasion to communicate with him in this particular area.

I won't go into an immense amount of background, not because it doesn't deserve to be gone into but because the Deputy Attorney General did go into it at great length in response to a letter which I wrote to him in the fall of 1974 and to which he replied in a very fine letter of February 7, 1975. Anybody who would like to have a copy of that correspondence is certainly welcome to it.

[11:15]

The basic substance, I think it's fair to say, is that both the constitutional questions and

the role of criminal law in this matter really inhibit in a sense the province from enacting effective legislation in the sense that it would achieve the end of promoting racial harmony in this vexed field of hate literature and racism, other than the areas which can and are being covered and will undoubtedly be covered more broadly under The Ontario Human Rights Code when amendments are proposed to that Code.

I really want to ask the Attorney General whether he would give consideration to the view expressed by his deputy, and I want to quote what his deputy has to say:

"It has been argued that one of the central functions of the law is to reassure society's values are embodied in its laws and its institutions. Reassurance, however, may be given through means other than formal legal rules and procedures. An alternative worthy of consideration in cases such as the Western Guard activity in question is a campaign of counter-propaganda.

"For example, in the case in question a letter signed by the leaders of all parties represented in the Legislature might be sent to all households in the ward where the Western Guard material was distributed. The letter would simply reassure the recipients that Ontario society as a whole does not subscribe to the views professed by the Western Guard.

"This type of response would be more or less instantaneous. It would represent a tangible indication that the group attacked is not isolated in a sea of hostility or indifference and the attack would thereby be deflected from the group to society as a whole and to the values to which it, as a society, subscribes. Such an approach really would not require legislation, if it is considered appropriate, or such a response may be achieved through instrumentality of The Ontario Human Rights Code."

I'll skip the part about the Code because I don't want to be involved in the law aspect of the suggestion.

"It may well be that through the medium of the commission"—that is the Human Rights Commission—"such a response could be effectively achieved. It would seem to me that a response by way of reassurance is a valuable alternative for further consideration and I do not suggest it as a fully developed scheme at this point in time.

"Its basic premise is that there is considerable merit in providing much needed reassurance and therefore stability at the time of the occurrence. It would be necessary to develop criteria respecting when such re-

sponses are called for and the form of the response."

The Deputy Attorney General, of course, makes the necessary caveat that he was expressing his own views throughout the letter and not the views representative of the policy of the government.

I think I accept the Deputy Attorney General's letter as quite conclusive of the difficulties and problems of dealing with this area from the point of view of provincial legislation other than the extent to which, under the Ontario Human Rights Code, it can be actively countered in one way or another through the educational provisions to which the reference is made in this letter.

I think personally the time has come—and I'm not talking about the Western Guard at all—I think there is a lack of tolerance developing in society. There's evidence of it in the press and the media from day to day. When I first raised this matter in the estimates of the Ministry of Labour in the fall of 1974, I certainly raised the question to answer the problem of some people saying if you talk about it you cause more problems than if you ignore the problem, and I don't subscribe to that view.

I wonder whether or not it would be proper for the leaders of the three parties to give consideration to a carefully prepared statement by the three leaders of the parties, whether it might be wise to invite representatives of the various cultures in our multicultural society to a press conference at some place like the St. Lawrence Centre or some such forum, at which the three leaders would make a public statement on the values of our society and the common community of traditions that we share here, from the point of view of providing some general overall sense of reassurance that the political leaders are concerned about the problem.

We might also then perhaps follow it up through The Human Rights Code where there is a particular incident or a particular group affected, to actually send out a specific letter immediately to the people who are concerned. I think probably all of us in different contexts sense that one of the immediate problems of the kinds of attacks that are made on groups or on individuals belonging to particular groups is the immediate sense of isolation and fear which must overcome the persons involved. The sooner the reassurance is given, the better.

The other article which I think bears out a great deal of what the Deputy Attorney General said in his letter to me is this article

which was reprinted from the London Free Press, written by Professor Ian Hunter, who is special legal adviser to the Ontario Human Rights Commission, and was at that time—I think he still is—Professor of Law at the University of Western Ontario: “Hate and its Control: The Problem and the Law.” I think it is a first-class article. I don’t know whether you have seen that.

Hon. Mr. McMurtry: Yes, as a matter of fact, there was a recent meeting of this group, Urban Alliance, and we caused this article to be distributed.

Madam Acting Chairman: We didn’t have it.

Hon. Mr. McMurtry: Didn’t you have it? It was my understanding that it was going to be distributed.

Mr. Renwick: I just want to quote the last paragraph, because I think it is apropos of the comments which I have just been making. He discusses the same sort of problem and the difficulties about it and so on, and he ends up in saying:

“In a more fundamental sense the criminal law will always be rather ineffective, since it ultimately depends for its efficacy on the moral consensus of the society. If the virus of racism has infected the bloodstream of the Canadian body politic haphazard prosecutions won’t cure it. If the majority of Canadians are uncaring when minority rights are violated law will provide at best only a cold sanctuary for the dispossessed.

“If, on the other hand, the majority in fact care deeply about minority rights and are prepared, in a concrete manner, effectively and publicly, to demonstrate that concern to minority groups the necessity of resort to criminal law will be infrequent. Either way the role of the criminal law is only of marginal significance. At bottom the issue is the amount of goodwill and tolerance in the Canadian community and that can neither be measured nor demonstrated by resort to criminal prosecution.

“What Justice Learned Hand once wrote about the spirit of liberty is equally true of the spirit of tolerance. It lies in the hearts of men and women. When it dies there, no constitution, no law, no court, can save it. No constitution, no law, no court can even do much to help it. And while it is alive it needs no constitution, no law, no court to save it.”

I wonder if perhaps I could give a couple of instances that caused me to believe that the time has come. In my own riding, I had

a woman who was bringing up four sons who are black. They were all doing well at school. The environment in which they were living—I’m not going to go into great details about the environment—was such that she had made a positive contribution to the area. She had organized a sports association and was one of the prime movers of it, she did a really first class job in the area, but gradually the tolerance in the area just degenerated to the point where she had to call me to say that unless her sons were able to move and continue their education they would have no alternative but to leave home. So she was, with co-operation, relocated elsewhere.

The tragedy was that there was then this vacant accommodation and a family from India moved into the same suite. The man had been in Canada for some time as a landed immigrant. I had assisted him, through the Canadian Embassy in India, in sort of facilitating the arrival of his family in Canada. They had just arrived and had only been here a very short time. They had every right to come here. They were then placed in this accommodation and could only stay one night, and they had to leave because of the attacks which took place. I’m not levelling this as criticism, it just happened.

Another situation took place in my riding. A family from Pakistan was subjected to a considerable amount of harassment on the street, but fortunately—and I can’t name all the people who were involved, but certainly the leadership of it was provided by the Rev. John Robson of the Queen Street East Presbyterian Church, and they had sort of street meetings and then they had sort of a public festival where elements of the culture of Indian-Pakistan culture were on view. It was a real success, and apparently has sort of solved the problem on that particular street, which had degenerated to the point of very real fear and apprehension. So there are good things taking place as well.

I don’t think one need say that those instances are isolated to the particular area I represent. We have all seen many others. Again, I sort of balloon this file of stuff, which I’m not interested in going into at great length, about what can be done about the recorded messages and that kind of topic. I’ve had all the communication with everybody, as I’m sure the Attorney General has and is equally as frustrated as how best to solve the problem. But would the Attorney General respond to the suggestion I made, and see whether or not it’s too grandiose a

scheme or whether it would merit real consideration as a possible method of counteracting this problem?

Hon. Mr. McMurtry: I share your concerns totally, Mr. Renwick. I think the suggestion is an excellent one. I certainly give you an undertaking at this time that I'm prepared to discuss it as soon as possible with my leader, the Premier (Mr. Davis), and would invite you and, say, for example, Mrs. Campbell—as the only representative here from the Liberal Party at the moment—I'm sure would be quite prepared to discuss it with her leader. It's a matter that has caused me grave concern for some considerable period of time and for some period of time before my election to this Legislature, and, quite frankly, it's a problem that has occupied a great deal of my time, not always showing positive results.

It certainly is a problem that has been given a much higher priority in our ministry, for example, than hockey violence, and as a matter of fact that very portion that you read from the article of Professor Hunter was included in a speech that I gave to the Urban Alliance a week or so ago. Ms. Sandeman was there. It had been my understanding that the ministry had handed out copies of this very excellent article to all the participants at the meeting. That's what I was told by my staff but I guess there was some sort of breakdown.

[11:30]

Mr. Scott: It is available.

Hon. Mr. McMurtry: They're available, are they? I see. In any event, I think it's something that we should pursue and pursue actively, initially, with our three leaders. I consider it a serious problem. I regret the fact that there are others in the community who do not feel it is such a serious problem; who feel that the freedom of speech should be given a much higher priority than the rights of minority groups to be protected from mindless slander and libel.

Obviously, I don't share that view. I've had meetings with federal people who have responsibilities in this field, the Minister of Justice, the Minister of Communications and the Postmaster General. I can only say that I'm very glad to hear that you've voiced those concerns, Mr. Renwick, because I think it's very important that the Legislature, if possible, speak with one voice on this very sensitive and complex area.

Mrs. Campbell: I welcome personally the suggestion of Mr. Renwick. I think I can speak without any hesitation of my leader's position in this matter because I was present when he addressed the Human Rights Commission on this subject and told of his own background in Montreal, as part of a minority group, and what his feelings are today.

I have striven with this problem for years, trying to find out, just to sort out, how the law itself can be helpful, I must say, like Mr. Renwick, I have been very frustrated because when you try to get into the legalese of this kind of a situation you are really not coming to grips with the problem at all.

I would also like to suggest to the Attorney General that as well he might call a meeting or see that a meeting is convened of some of his own ministers in the government because I don't think they are as aware as perhaps they might be that their own actions have created some of the problems. If I may just explain: In my riding which, as you know, is a pretty complex riding, I see a developing fear. The fear develops because of the lack of adequate housing and because I have, as I have said ad nauseum, nine hospitals there is also the fear of job losses.

When people become fearful, they tend to become resentful and they tend to look for natural scapegoats. Visible minorities are those scapegoats in our community. All of these activities or lack of activities are only building in to the problem as I see it today. I run into it every day—people who feel, for example, that they have been here a long time and then other people, as they are wont to say, come fresh off the boat and get into Ontario Housing while they have not been able to secure a number of points to get in. The difficulty lies with the fears in our community, and I think your ministries must be more sensitive to their role in creating these fears.

I also drew to the attention of the Human Rights Commission another aspect, another facet, of this situation which has recently developed. I received a letter on the letterhead of two doctors, and by the names I assume, I don't think erroneously, that perhaps they were from India themselves. They were protesting the possible development of a senior citizen housing project for our native peoples in the area and felt that they did not want to have their peace disturbed by war drums and things of this kind.

I think we have to keep these things in perspective, perhaps. Obviously that is an aberration, what we're talking about. I think

we have to have assurance across the board for our native people in this kind of a situation as well. There is no doubt that people, particularly hospital employees in my riding, those who have had to take a day off without pay to met the cuts in the delivery of health service, tend to look at their co-workers with fear and resentment. I raise that not in a partisan fashion—I trust that you will believe me on that—but only because I think it's a very real problem.

If we in the government could look at what we're doing, not deliberately at all but as the by-product of our decisions, perhaps we would be also more sensitive when we come to decisions in these areas. I will certainly undertake to speak to my leader as quickly as possible and to ask that he hold himself available for such a meeting. I have no doubt as to his response.

Hon. Mr. McMurtry: If I may respond very briefly, also in a very non-partisan sense, first, in relation to the need for more adequate housing, which we all recognize—Mrs. Campbell, I'm sure, is not without some influence with some of the federal members of her own party, particularly the Minister of Finance—

Mrs. Campbell: I question that. I've tried.

Hon. Mr. McMurtry: —who shares part of her riding, I would hope that a similar message would be delivered to them—

Mrs. Campbell: It has been.

Hon. Mr. McMurtry: —to develop a degree of sensitivity in relation with this very critical problem.

Again, I have to say with respect to the allegation of health cuts, I see our provincial budget in health care increasing upwards of half a billion dollars this year so I have a little difficulty with the expression "health cuts"; but I appreciate the point you're making.

Mrs. Campbell: I can only say that when we are escalating, we're escalating on the basis of inflation and not on the basis of any increase in service or maintaining salary levels for people. They have to take a day off and that to them is a cut, any way you want to look at it.

Hon. Mr. McMurtry: Mr. Callaghan I think wanted to clarify something in relation to the letter.

Mr. Callaghan: I don't have a copy of the letter with me but the point I'd like to make is I used to discuss these problems many

years ago—I mean 10 years ago—and my approach at that time was very positive with reference to how you handle those problems in relation to the application of the law. The idea there, as much as I'd like to claim credit for it, belongs to Alex MacLeod. I don't know if you remember Mr. MacLeod. He was a member back in the forties, for Dovercourt I think. He was a great supporter and proponent of the Ontario Human Rights Commission.

I spent many hours discussing with him how those problems could be dealt with and the concept of not isolating people who are the victims of this kind of slander was something that he gradually brought me around to by way of persuasion and argument. When I was in Kenora in 1974 with reference to the incident at Anicinabe Park, I saw how a community that does get isolated on racist lines—I have very strong views in that area—does resort in the final analysis to chaos, armed resistance.

Alex MacLeod was a firm proponent of the logic of that—that if these people are isolated and they're not shown the warmth of human feeling by the majority of the community at the time and are victimized by this kind of talk, they will themselves eventually resort to violence, which of course is anathema to law officers.

So the concept of the community, through its designated leaders, de-isolating them, telling them they are still part of the community, is something that I just repeated in the letter to you as a pragmatic way of approaching it. Because I think in the letter we discussed a lot of law that was not very practical in application to that.

I want to make it clear that the idea was really Alex MacLeod's idea of years ago.

Mr. Lawlor: I would like to know, when the Attorneys General across the country meet is this problem a central theme?

Hon. Mr. McMurtry: I have raised this problem at meetings of the Attorneys General. As I think the federal Minister of Justice said last week, the problem with respect to hate messages on the telephone seems peculiar more to Metropolitan Toronto than to other areas. But all of the Attorneys General have expressed concern in relation to this area—some more than others, because obviously it's a greater problem in some provinces than others.

Mr. Lawlor: They've expressed concern within that meeting in discussion, is that the idea?

Hon. Mr. McMurtry: Yes. For example, I've been seeking a solution to this business of recorded hate messages, because I've had a number of meetings with representatives from minority groups during the past year and before.

Again, as I've said publicly, the issue of the hate messages is there's the fact of any positive harm that might be traced to the actual messages themselves. But in my view there is the even greater problem in the minds of some minority groups that this represents in the fact that a public monopoly can be used to transmit these messages an indication of lack of concern on the part of the "establishment." The symbolic harm that is caused by these messages in my view is immense, because it is interpreted by minority groups as a sign of people in authority not caring about their sensitivities. This is why I have been particularly concerned about this area—not that I'm not as equally concerned about other areas, but I think people who have grown up in a relative majority group, people who have never been threatened by this type of hatred, bigotry, or racism, have no real appreciation or find it very difficult to appreciate the harm to the sensitivities of minority groups in this area.

[11:45]

This of course often makes it difficult to communicate to the society generally. Even in Toronto, for example, some of my concerns in this field have been pooch-pooched to some extent, if I might use that expression, in the editorial columns of the major newspapers. Yet you look at the minority newspapers and they say: "Right on. Why hasn't somebody done something about this?" Even our major newspapers are not really aware of the extent of the problem to the extent that they should be; their editorial boards at least are somewhat out of touch.

Certainly the chairman of the Bell Telephone Company, and his board are out of touch because they've shown virtually no interest in the problem. For example, I approached them with a view to supporting the proposed amendment to The Bell Telephone Act of Canada, because under the present Bell Telephone Act, as you probably know, there is an expressed prohibition from the Bell Telephone interfering with any message that is transmitted over their system. The reason or the rationale for that general prohibition is understandable and valid.

I suggested the idea that there might be some mechanism, some amendment, which would give them some discretion in relation

to the rejection of recorded messages that are obviously racist in tone, and that there could be a mechanism developed where they would have the initial discretion, subject to some form of appeal perhaps to protect the individual subscriber.

Their attitude was one of total and complete indifference and the chairman wrote me a letter saying simply "this is a matter for the Criminal Code," period. Again it's this attitude in that area that really causes enormous damage to the social fabric with respect to a minority group which again is just an indication that the majority, whoever they may be, doesn't care. As I say I just feel very strongly about it.

Mr. Lawlor: It's funny, because one of my daughters, I think today or yesterday, mentioned to me that she—and she seemed to be quite excited by it—was going to hear a lecture by the man who wrote *Black Like Me*—I think his name is Griffin or Griffiths; he has been in Toronto and is in Toronto today—who having painted his skin was able to pass as black. So some of the younger people care; I didn't give her any urging. She came forward on her own.

And about the telephonic hate messages, in the last few days I've read where legislation has been introduced or there is an amendment for the Bell Telephone Act; there has been something in the paper about moving in that particular area.

Hon. Mr. McMurtry: Yes, well the Minister of Justice for Canada has stated publicly last week that he was introducing legislation to deal with this problem. He hasn't told me specifically what it was. We had suggested amendments to the federal Human Rights legislation that might be of assistance and I gather that they may be moving in that direction.

But there has been, I should say, continuing pressure from the Ministry of the Attorney General for a considerable period of time in respect to that one area—and there are many other areas—because we feel that there was federal legislation that was appropriate. Quite frankly we're pleased that there is finally some response.

Mr. Lawlor: Pursuing those other areas for a moment in our discussion—those hate messages; I mean you have to move in on them and there is little question about that. But there are the sections particularly relevant—

Mr. Renwick: Would you mind if I just dealt with that recorded message thing very

briefly, because I have had the same experience obviously that the Attorney General has about the formal nature of the Bell's interest in this whole matter. I wrote a letter which I sent to the Attorney General and the Solicitor General of Ontario (Mr. MacBeth) and the Solicitor General of Canada and Minister of Justice of Canada, the Minister of Labour (B. Stephenson), the chairman of the Ontario Human Rights Commission and Mr. Jean de Grandpré, the president of Bell Telephone on April 15, 1976 about the racist telephone messages of the Western Guard in Toronto. I said at the end I would appreciate a response from each of them as to what steps could be taken to prevent the transmission of this racist message. I never did get a reply from Mr. de Grandpré but I did get a letter from the district manager of the Bell Telephone on Danforth Avenue which said:

"Dear Sir: Mr. de Grandpré has asked me to reply to your letter of April 15 concerning the content of the message being transmitted over telephone number 416-690-1996. The federal charter under which we operate defines Bell Canada's responsibility as that solely of a common carrier. We do not transmit messages but merely provide the service and the equipment which enables those entitled to use them to do so. We are also prohibited from controlling or censoring the purpose or meaning of any message transmitted over our network. While the contract between individual subscribers and the company can be terminated because of illegal activities, neither the company nor any individual within the company can determine what constitutes an offence under the Criminal Code.

"The solution to this continuing problem must be found through legislation and/or the criminal courts. Bell Canada will continue, as we have done in the past, to co-operate fully with the legal process in any action which may be taken by individuals, groups or legislative bodies."

"I sincerely hope that this reply clarifies Bell Canada's position in this matter. Should you wish to discuss this matter further, please do not hesitate to call me."

Anyway, that was the response of Bell Canada, which I thought extremely formal. I think it indicates, both in the manner in which the letter was responded to and its contents, that they hardly give any indication that they are concerned about the problem themselves. There is a kind of ironic humour

in the last of the messages that John Beatty transmitted over that number.

It went: "Rule Britannia. John Beatty speaking as co-ordinator of the British People's League. This broadcast is going to be the last pre-recorded announcement from this unit in the basement of 61 Kingsmount Park Road." I'll skip a few lines. "If you want to volunteer instead of just reading about the slaughter and you want to definitely defend your white race in Rhodesia, then write exactly this way: Private Dispatch, Bag 7720, Causeway, Rhodesia, Attention: Army Headquarters. There's no excuse for anyone. It's not as if we were going to Vietnam, you know, and fighting for people of a different colour. Now you definitely can fight for your beliefs, and if you don't fight now, well then once the bombs drop on dear old T.O., God Save the Queen, God Bless Rhodesia."

When I first saw it I thought to myself that I hope John Beatty goes. Then I said to myself that I couldn't possibly wish John Beatty even on the people of Africa. I prefer him to stay here and let us deal with him one way or another. I'm sorry, Mr. Lawlor, you go ahead.

Mr. Lawlor: I just have a brief comment. I would have thought that the Attorney General's people—and I trust that they did—would have given discussion to that aspect, but also to the central aspect, that is, section 281 with its various subsections with respect to genocide and incitement, in order to make suggestions to the Minister of Justice of Canada and to work it over a bit in conversation as to how that law may be amended to make it effective.

Ian Hunter's article sets out the limitations, which are severe. So the law is there but it's an ineffective law which can be easily flouted. That Alberta Ku Klux Klan outfit doesn't advocate genocide in so many words but it goes the opposite way and talks about repatriating everybody, except the constitution. My question boils down, first of all, to this: Do you do that kind of thing, make suggestions?

Hon. Mr. McMurtry: Yes, we do. In this particular instance, we have discussed within the ministry how that particular section might be improved. It's a very complex matter and we haven't come up with any specific suggestions that I am aware of at the moment, but we have people studying it. As you know, the original section was passed only after many, many weeks of debate. As I said

before, many people, many federal MPs with the best intentions in the world, felt it shouldn't be passed at all. There is great difficulty in determining what improvements can be made. We are studying it and we are glad to have your views.

Another thing just before we break off, because you were kind enough to accommodate me by scheduling this particular meeting of the committee on estimates to go only to noon, we regard the prosecutorial process as generally inappropriate and as a last resort.

Firstly, it obviously gives some of these people just the sort of platform they are looking for. This is why we haven't been concentrating our efforts on sort of strengthening the criminal process as such, because we just think that the criminal courts should be used as a last resort in any event for the reason I just mentioned. There is obviously the enormously difficult problem of identifying the source of hate literature and hate messages and the question of process cannot be initiated until that's done.

I welcome Mr. Renwick's contribution because I think as members of the Legislature that should be the thrust of our efforts, to make people who are the victims of this feel less isolated, to give them the reassurance that it is so important, particularly, as Professor Hunter points out in his article, since at the very best the criminal process is going to provide cold comfort to those who have been the victims of this type of activity.

Mr. Lawlor: My only suggestion and this is presumptuous but I think you have to do these things, if the clause ended in "incite hatred against an identifiable group," it could leave out where such incitement is likely to lead, as the "likely to lead" is the difficult thing, and leave up to the courts to adjudicate how the incitement to hatred is impinging above freedom of speech. We are all jealous about that but not in that particular context. There is no right of free speech to incite hatred against groups in this society. I will leave it at that.

Your consent is necessary. Have you had many applications during your tenure of people seeking prosecution?

Hon. Mr. McMurtry: No.

Mr. Lawlor: Just to wind up as far as I am concerned, I want to make a brief quotation from the special committee on hate propaganda in which Pierre Elliott Trudeau was the leading figure. He said on that day: "It would be a mistake to ignore the potential for prejudice developed by these groups

and their continuing hate activities. It is far better for Canadians to come to grips with this problem now before it attains unmanageable proportions rather than deal with it at some future date in an atmosphere of urgency, of fear and perhaps even of crisis."

Mr. Acting Chairman: Perhaps we can either continue at two o'clock or, if the Attorney General has got three or four minutes, we could perhaps complete it now, depending on the members. Would you prefer to go on this afternoon?

Mr. Lawlor: That's up to the Attorney General.

Mr. Acting Chairman: Do you have to leave now?

Hon. Mr. McMurtry: I should leave within five minutes.

[12:00]

Mr. Gregory: Mr. Chairman, my remarks are very short. Certainly I would agree with the remarks that you made this morning. I think it doesn't matter what political stripe you are, one has to agree with these sentiments. I'm of the opinion of course that the racial prejudice is not confined to colour. I think we see examples of all colours.

One such example that disturbs me a great deal is the literature or publicity that was given to, I believe, an immigrant group who were admonishing the federal government for considering any kind of immigration of the white people from South Africa or Rhodesia. Now I would hope that our government, this provincial government, is going to take a very strong position with the federal government in supporting immigration to Canada from Rhodesia or South Africa in much the same way as they would do so for immigration from any other country. It's very distasteful to me when I hear of groups who themselves quite often claim persecution on the basis of their colour or race or creed or religion or whatever, taking the same tactic towards people who in most cases—and I would say in virtually every case—are not responsible for the situation as it happens to be in Rhodesia and South Africa.

I certainly hope my government is going to take a position of support for these people who wish to emigrate from South Africa or Rhodesia to this country and without any prejudice on the part of any other people. I would hope our actions could be as strong in that respect as our genuine feelings are today regarding the other side of the coin.

Hon. Mr. McMurtry: I don't think anybody was being overly specific as to who are the targets or who are the perpetrators. I think we're aware that all races are capable of being guilty of racism, bigotry and hatred regardless of their colour, and that it's not confined to any one race. I agree with you totally.

Mr. Gregory: Mr. Attorney General, I would agree with you too, and I'm sure no one at this table would think of it in that way. However, there seems to be consensus—there seems to be when you speak to people, when they speak in terms of racial discrimination, it is always the white who is discriminating against the other colour. That seems to be the impression that everybody has.

Hon. Mr. McMurtry: No, it's not always that way but in our particular community I think that's what usually occurs, unfortunately, simply because of the relative numbers. If the population figures were reversed then the point you bring out might well have that

much more application to the Ontario community. But—

Mr. Gregory: That in itself is a form of discrimination, because we're saying because we're in the majority, it's always us. And that's the way that people view it. I'm just pointing out that isn't always the case.

Hon. Mr. McMurtry: Nobody said it was.

Mr. Lawlor: I think there's reverse discrimination even here.

Mr. Gregory: Yes.

Hon. Mr. McMurtry: Yes, of course. I mean there's no question about that.

Mr. Acting Chairman: Ms. Sandeman, in view of the Attorney General having to leave, perhaps we could go on at 2 o'clock, that would be more suitable than to try to crowd it in now.

The committee recessed at 12:04 p.m.

CONTENTS

Wednesday, November 3, 1976

Administrative services programme	S-2607
Financial management	S-2607
Management audit	S-2610
Personnel management	S-2611
Programme planning and evaluation, systems development	S-2614
Recess	S-2625

SPEAKERS IN THIS ISSUE

Campbell, M. (St. George L)
 Gregory, M. E. C. (Mississauga East PC)
 Lawlor, P. D.; Chairman (Lakeshore NDP)
 McMurtry, Hon. R.; Attorney General (Eglinton PC)
 Renwick, J. A.; Acting Chairman (Riverdale NDP)
 Sandeman, G.; Acting Chairman (Peterborough NDP)
 Sargent, E. (Grey-Bruce L)

Ministry of the Attorney General officials taking part:

Callaghan, F. W., QC, Deputy Attorney General
 McLoughlin, B. W., General Manager
 Scott, G. W., Director of Courts Administration and Inspector of Legal Offices



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Legislature of Ontario Debates

SUPPLY COMMITTEE—1

ESTIMATES, MINISTRY OF
NATURAL RESOURCES

OFFICIAL REPORT — DAILY EDITION

Third Session of the 30th Parliament

Wednesday, November 3, 1976

Afternoon Session

Speaker: Honourable Russell Daniel Rowe

Clerk: Roderick Lewis, QC

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CONTENTS

A list of the speakers taking part in the debates in this issue of Hansard appears, in alphabetical order, at the back of this issue.

Daily contents of proceedings also appears at the back of this issue. Reference to a cumulative index of previous issues can be obtained by calling the Hansard Reporting Service indexing staff. (Phone 965-2159)

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LEGISLATURE OF ONTARIO

SUPPLY COMMITTEE

WEDNESDAY, NOVEMBER 3, 1976

The committee resumed at 1:14 p.m.

ESTIMATES, MINISTRY OF NATURAL RESOURCES (continued)

Mr. Chairman: The committee will come to order.

On vote 2304, resource products programme; item 1, mineral management:

Mr. Laughren: Thank you, Mr. Chairman. Before we adjourned for lunch I was talking about the problem of taxing the resource sector as opposed to having the resources in the public sector. What bothers me a great deal is what's happening with the Ontario mines and the role that the companies are playing in the third world.

This fits properly in these estimates, at least partially because of the minister's recognition during the last year that we do live with trans-national corporations. Indeed, he used that fact in several of his speeches on the problems that we face in northern Ontario for the processing of our minerals.

When I look at the behaviour of Noranda Mines in Chile, for example, or its intention to move into Chile with a \$350 million joint venture with that band of thugs and bandits running Chile now, I know that I am not proud to have Noranda as a corporation resident in this province. And when I see Falconbridge Nickel Mines and how it behaves in Namibia and in Rhodesia, I know that I am not proud to have people think that Falconbridge is a corporation resident of Ontario.

[1:15]

One need only look at the level of housing of the Falconbridge workers in the third world, whether it be in South Africa, Rhodesia or the Dominican Republic, to know that their behaviour is governed entirely by the jurisdiction in which they operate. I suspect the minister would even admit that they are only as civilized as the laws of the jurisdiction in which they happen to be exploiting

any given resource, because they don't have any set of ethical standards they follow, any kind of accepted standards of civil rights or human decency.

You don't have to be well read on the third world to know that. There is enough controversy now with the various churches in this country banding together to try and bring to the attention of the shareholders of those resource corporations their kind of behaviour in the third world. I won't dwell on it, but I think that it is one aspect of our resource corporations we should always keep in mind when we are talking about taxing them and when we are being held up to ransom by them in order to reduce our level of taxation upon them. They know no allegiance to anything other than themselves.

The other aspect of the ownership of our resources that I want to talk about before I get more into the specifics of supervising them is the whole question of the economy of Ontario. We know that resources play a major role in the economy of Ontario and I suspect that when the minister makes his tax concessions he does it with the belief that it is going to maintain employment in northern Ontario and that he doesn't do it for any other reason but that he thinks it is in the best interest of the province of Ontario.

I don't think that's the case. I think that if we read what the Science Council of Canada is telling us, if we read what the Economic Council of Canada is telling us, we can very quickly understand why it is that the resources are necessary if we are going to turn the economy around. Not just in Ontario but the rest of the country as well. The term that they use is that the resources are the lever to unlocking the development and making us an industrial province or an industrial nation, because it's using those resources to get into the manufacturing and the finished products that will allow us to create new wealth.

We talk a lot about redistributing wealth—certainly the party I represent has spent a lot of time talking about redistributing wealth in the province and in the country. We

haven't talked enough either about creating new wealth that you are going to distribute, because you can't go along redistributing the same amount of wealth. You've got to create new wealth and the resources are the way to do that.

I don't know what further evidence we need that the trans-national corporations are not going to do it for us. They have been in operation in Ontario a long time and the minister can point with pride at a new rolling mill in Sudbury if he likes, or at the smelter in Timmins, but they have been in operation in this province a long time. Falconbridge has been here something like 45 years and they are still shipping their ore to Norway and you are still giving them concessions to do it.

The argument that is always used is that the mining companies have given us a lot of investment capital and without them we wouldn't be able to operate. But let me give you a figure, using an example of companies that operated in Chile. These are the large United States copper companies and you can draw a parallel to what's happened here.

Between the years 1911 and 1971, the years during which the large US copper companies operated in Chile, foreign companies removed from Chile a total of \$7.2 billion. During these same years foreign investment amounted to just over \$1 billion. In other words, foreign investors removed from Chile seven times more than they put into the country. While I don't have the figures I suspect that if someone could do a balance sheet on the amount of capital that has been brought into this country versus the amount that has been taken out you would end up with a rather startling set of figures.

The other thing that bothers me is what happened last year when, after a 74-day strike at Falconbridge in Sudbury, in 1975, the union settled and the company almost immediately laid off 400 to 500 workers. They were able to do it because of their operations elsewhere. As a matter of fact, that's why they did it. I want to talk about that a little later but right now the point I want to make is that was bad management on the part of Falconbridge.

Falconbridge's history as a corporation is truly incredible. I just can imagine what would have happened—the public uproar—if that had been a public corporation which had made the mistakes that Falconbridge has made over the last few years with the refinery in Sudbury and with its inability to plan properly.

I don't know whether the minister is aware of the company in Alberta—McIntyre—which was operating a coal mine at Grande Cache and the problems they had there. They built a whole new town and the company made all sorts of promises; they broke them. There was terribly bad forecasting on the part of McIntyre. The government went ahead and built schools, put in sewers and water, provided hospital and recreational services.

The company lost \$22 million in the operation and as a result the company decided that it couldn't continue with those losses and it started laying off workers. When it laid them off, the town ended up with serviced lots it had spent about \$1 million to service and guess who paid in the end? It was the taxpayers who paid in the end for the mistakes made by McIntyre, and McIntyre is nothing other than an extension of Falconbridge. It's basically the same company.

Here you have McIntyre in Alberta making a shambles of things and causing problems in the community, and in Sudbury you have them doing the same thing. I would emphasize that before the minister responds when I am through, about public ownership versus leaving them in the private sector, he think about it and not respond in a knee-jerk action kind of way. Those companies have no commitment to us at all, absolutely none, and if you read between the lines in their annual reports they make that clear. They know they can no longer pretend that it's not so yet we continue to treat them as though they were good corporate citizens when we know they are not.

The other argument which is sometimes used is that the companies do create a lot of jobs and they do spend a lot of money here. I would like to ask the minister, if he could make a note of it, to tell me when Inco spent \$224 million—a quarter of a billion—to buy ESB—the battery company in the United States—what that did for Ontario in terms of jobs; in terms of capital flow; in terms of processing?

In my view it accomplished absolutely nothing. It just took surplus that was generated here, which was earned in this province and bought another company. It's beyond me how we can see that as being a positive move on the part of a resource corporation resident here.

Keeping in mind that it is a company dealing with a non-renewable resource—we all know that the day is coming when that resource won't be there, just by definition—therefore, it seems it would be more obvious to ensure that while that resource is there

we get the absolute maximum out of it before we allow it to go anywhere and before we allow any surplus generated by that resource to go anywhere. We all know our resources are limited and we need look no further than the gold mines in the Timmins area.

I ask you what is going to happen to the Timmins area? I believe there are now about 700 fewer jobs than there were a year or two ago in the Timmins and the Kirkland Lake areas. This government sits back and twiddles its thumbs while the private sector goes its merry way and there seems to be no commitment to looking at those resources differently from the way you look at General Motors. There is an enormous difference between a manufacturing company and a resource company, surely to goodness. We can keep making cars forever but those resources will not be there and I see no commitment on the part of the minister to do anything about it.

It's fine for him to sit up there and say: "Well, when the federal government gets off its hind legs and does something, we won't have that problem." But the resources are the jurisdiction of the province. I know there are complications with the gold mines just as there is with uranium, but nevertheless it's in the resource sector, which is a provincial jurisdiction.

I don't know whether this minister signed the declaration of a mineral policy for Canada with about 10 different goals for mineral development. They were truly admirable goals; who could question them? But I don't see any action being taken at the provincial level in Ontario to ensure that we achieve those goals, unless you call a tax concession a way of doing it. I think that's the opposite way to move.

I would say it's clear, since we have the resource here and the skilled labour to do it, and with all sorts of people unemployed, that we don't need to rely on these transnationals to do it. If the minister is worried about the political aspect of it, perhaps he could look to Saskatchewan—I thought I would mention that before the minister did—

Hon. Mr. Bernier: You were waiting for me, were you?

Mr. Laughren: Oh, yes.

Hon. Mr. Bernier: You knew that was coming.

Mr. Laughren: Oh, how could it not be coming.

Mr. Reid: There won't even be farmers left in Saskatchewan.

Mr. Bain: Saskatchewan is such a trend-setting province—

Mr. Laughren: The potash industry in Saskatchewan owed the government \$30 million in taxes; if you want to talk about corporate blackmail and holding the people up for ransom, it was the potash companies in Saskatchewan. And the minister doesn't need to talk about British Columbia, although he can if he likes, because I notice that our exploration and development isn't exactly booming; nor are our new mines exactly booming, despite the free enterprise environment in Ontario.

Mr. Reid: They've cut it all out.

Mr. Laughren: Unfortunately, they haven't.

Mr. Chairman: Order, please.

Mr. Laughren: I wonder if the minister has read the select committee report on economic and cultural nationalism, the one that deals with natural resources, foreign ownership and economic development. That's an interesting report. In it they make some good points. They say, in dealing with non-renewable resources:

"Canadian economic policy should be re-oriented so that a greater emphasis be given to the development of the manufacturing sector and that the non-renewable resources sector should be de-emphasized. The policy shift should involve not discouragement of resource development, but an encouragement of manufacturing and processing in Canada." Put that together with your concessions to Falconbridge.

"Further, a long-run goal of non-renewable natural resources policy should be to ensure that at least 75 per cent of the equity of all new ventures in the non-renewable natural resources sector, after the implementation of the committee's recommendations, be owned by Canadians."

And a very interesting recommendation:

"The recommended Canadian ownership requirements in the non-renewable natural resources sector should be implemented in three stages over a 15-year period, as follows"—and this is the 1974 report—"After five years at least 25 per cent of the equity of non-renewable natural resources ventures must be held by Canadians; after 10 years at least 50 per cent of the equity must be held by Canadians; after 15 years at least 75 per cent of the equity must be held by

Canadians; and no more than 10 per cent may be held by any one non-resident or related group."

I'm selecting out of a large number of recommendations here. Finally: "The government should be empowered to take up to 50 per cent of the equity in new ventures in the non-renewable natural resources sector." That one, I caution you, was a dissenting view by Mr. Kennedy and Mr. Walker.

Let me tell you who signed that report, with all those recommendations: Mr. Russell Rowe, MPP, who's presently Speaker of the House; Hon. Sidney Handleman, who is now Minister of Consumer and Commercial Relations; Mr. Douglas Kennedy, who is now a parliamentary assistant; Mr. Nick Leluk, parliamentary assistant; Hon. W. G. Newman, Minister of Agriculture and Food; and Mr. Gordon Walker, who is no longer in the Legislature. The document was signed by members of all three political parties, and it would be nice to see the minister start to take the advice of his colleagues.

[1:30]

I think that I should move more directly to the mining companies we're most familiar with, because I know that the minister isn't going to stand up and announce that we're going to go the Saskatchewan route—

Hon. Mr. Bernier: That's for sure!

Mr. Laughren: I know you're not—and bring the resource corporations under public ownership, despite the logic of such a move. But I can tell you—

Mr. Reid: Are you back to your programme again?

Mr. Laughren: Never changed.

Hon. Mr. Bernier: Nationalization of everything.

Mr. Laughren: Public ownership of the resource sector—never changed, been like that for years. Go out there and—

Mr. Reid: You're backing off that.

Mr. Laughren: Who's backing off it? No, we're not backing off it at all.

Hon. Mr. Bernier: Forest industries, mineral industries—nationalizing them.

Mr. Laughren: With the record of supervision that you have over the mining industry most people would be very happy to see it brought under public ownership, because of the lack of supervision that you've exercised

over the mining sector. It's okay, I suppose, if you live in downtown Toronto and you think of Sudbury as a mining camp of 100,000 people and you're glad it's there, but you don't have to go there.

Mr. Wildman: Transients.

Mr. Laughren: Yes. When you think of the wealth that's been created in the Sudbury area over the years—You know, I studied a little bit of economics and whenever you study anything at all about resource economics, it wouldn't matter where you studied it, you'd read about the resource wealth of the Sudbury basin. It wouldn't matter what country you were in, you would know about the resource wealth of the Sudbury area.

It's difficult to understand, why, given that wealth that's been created there, when you pick up a document presented to the Blair commission and using figures from the regional municipality of Sudbury itself and you look at the per capita debt in Sudbury it was \$290 by 1975 and by 1976 it had risen to \$375—that's per capita debt. Now compare it to Niagara, which is \$190; Peel, \$189; Waterloo, \$181; Durham, \$188; York, \$125—to pick some communities.

You say to yourself, which of those communities has created most in the development of this province? Which of those communities has meant more in economic terms to Ontario? I think that you'd have to agree that for 75 years now that the regional municipality of Sudbury, the Sudbury basin, has contributed enormous amounts to this province. Yet the price we pay for that contribution is a higher per capita debt than other communities of a similar size in the province of Ontario. I don't know how you justify that.

For years you've been told by the people up there that it costs more to provide services and that the mining sector was not paying its fair share, and yet nothing ever happens. I suspect that if mining revenues, the taxation of the mining corporations, was handled by the Ministry of Revenue, rather than the Ministry of Natural Resources, things would be different. But there is something inseparable about the Ministry of Natural Resources and the interests of the mining companies in this province.

I had hopes when regional government was introduced in Ontario in the regional municipality of Sudbury that there would be a single voice up there now that would say to Queen's Park: "Look, you fellows, it's not good enough any more. We're speaking with one voice, we're speaking with a stronger voice and we're going to insist that there be

more revenues from the resource sector." But some of the politicians in the Sudbury region have been more interested in fighting among themselves than with Queen's Park to get a fair deal and it hasn't happened, quite frankly.

When the Blair commission was in Sudbury the mayor of Sudbury went before the commission, just before I made a presentation to them, and he was using these arguments and some of these figures about the per capita debt and about assessment levels and about the assessment value of Inco versus the taxes they paid, and so forth. He made a very good presentation, I thought, and the response by one of the tax experts on the Blair commission was: "You would bite the hand that feeds you." He might better have put it: "You would swat the parasite that's feeding off you"; because the mining companies wouldn't be there without the people, without the community that was built there.

I presented a brief to the Blair commission as well, and I received an almost hostile reception. I didn't lay any rhetoric on them at all.

Mr. Reid: You saved it all for today.

Mr. Laughren: No, I'm not—I tried to be most reasonable. There's a copy of my brief here. It wasn't unduly long. It used some of the figures from the regional municipality, that I got from them and so forth—including, by the way, figures on the estimated assets of the companies versus the taxes they pay.

I'm sure the minister would be interested to know that the estimated assets of International Nickel in the Sudbury basin are \$1.5 billion; that's \$1 billion 500 million. If that's wrong I'm sure they would have corrected me that day when I presented the figure.

On that basis, they paid taxes of \$7.3 million.

Falconbridge, estimated assets of \$250 million, paid taxes of \$1.2 million.

So out of total assets, estimated, of \$1.75 billion, the regional municipality received taxes of \$8.5 million. I don't think that's very much.

Now I know that this minister doesn't establish property taxes, in conjunction with the Treasurer (Mr. McKeough), and I would hope he would realize that something has to change. Something simply must change. It is ludicrous to go on this way. And yet nothing seems to.

I was thinking about the amount of revenue that comes into Ontario versus the amount of taxes that are received, and I picked up a copy of the Ontario Mineral Review, which I

assure you I read as avidly as anybody in the province of Ontario every year when it's produced. I thought that this wasn't quite—

Mr. Reid: That may not be saying much.

Mr. Laughren: This isn't quite as good an edition, in my opinion, as in previous years. It's a little prettier, but I somehow didn't enjoy reading it as much.

Mr. Haggerty: I thought there was a better picture of the minister this year.

Mr. Laughren: Better picture, yes.

Mr. Reid: It costs a lot more.

Hon. Mr. Bernier: Thank you.

Mr. Laughren: On page one, in the foreword written by the minister, it says: "The year 1975 was characterized by the effects which world-wide recessionary trends had upon the mineral sector. The preliminary figures show that the value of Ontario's mineral production declined from its 1974 high of \$2.422 billion to \$2.328 billion, a drop of 3.88 per cent in current terms, or from \$1.872 to \$1.611 billions in terms of constant 1971 dollars."

Look at that and you think, "Gee whiz, we dropped. I guess as I read on that will justify any more concessions." Then when you look to page 11, and you look at the value of mineral production for the past number of years, not just one year which the minister conveniently used because it was the preceding year, you see that in 1971 the value of mineral production, rounding it off, was \$1.5 billion; in 1972 \$1.5 billion; in 1973 \$1.8 billion; in 1974 \$2.4 billion; and in 1975 down to \$2.3 billion.

So over a four-year period, the value of mineral production went from \$1.5 billion to \$2.3 billion, which is a substantial increase in the value of mineral production; and yet the minister chooses to select a year, the previous year, in which the mineral production dropped slightly, slightly. If that isn't the old pea under the shell game, I don't know what is.

You would think that you could have said that the value of mineral production in this province continues to rise, with the slight decrease in the last year. But oh no, that would not have suited your purposes for what you have been trying to say to the people of Ontario this year.

On page 13 of the mineral report, you talk about mineral value per capita in Ontario. This is the figure that's always intrigued me. In 1975, \$8.27 million—I don't

understand that figure. I don't know what that means. Is that the value of mineral production per capita in Ontario? Can't be \$8 million times 22 million.

Well when you're responding I would hope that you would—I really don't know. I'm totally lost; and every year it's in there and every year I intend to ask you what it means and I never have. It reads \$8.27 million is the mineral value per capita in Ontario. You tell those people out there that there's \$8 million worth of minerals standing in their name and see what they say. It's obvious there's something wrong with the figure; that or I don't understand it.

The other thing I wanted to point out to the minister, because he's always so concerned about employment, supposedly, is productivity figures, the number of employees versus the tonnage of ore. I think that's a very interesting figure.

I'll use northeastern Ontario if I might, although the other figures are here as well, because that's where the bulk of our minerals come from.

In 1966, using an eight-year period here, in 1966 there were 22,798 employees and they produced 35 million tons of ore. Rounding it off, shamelessly, that's about one and a half tons per employee, very roughly. In 1974, instead of 22,798 employees we only had 21,310 employees. They produced 45.9 million tons of ore, which is more than two tons per employee. So that in an eight-year period we've decreased, by over a 1,000, the number of employees in mining; and we've increased the tonnage from 35 million to 45 million, 10 million tons.

The reason I point out those figures to the minister or draw them to his attention, is that surely it tells him something about employment in the mining industry. If we go on the way we are, that figure is going to continue to drop—and by the way it has dropped even more dramatically in the forest industry, even more dramatically than in the mining industry. Unless we take some kind of action, that trend is going to continue.

I'd be interested in knowing what the minister intends to do in order to maintain employment in northern Ontario. It is essential that you get involved in a public way—this is why I go back to getting the public sector involved—so that we really are masters of our own destiny up there, on what we do with those resources and how far we process them, exactly what we do with them, because this should not be allowed to continue. I'm not against the mechanization of our mines.

For heaven's sake, the struggle of man is to make work easier and to make it more efficient, so I'm not against that. But I'm saying to compensate for that, we've simply got to get into further processing and manufacturing. And it's not happening.

You can talk about the mill if you like, but I could talk to you about some things that are happening elsewhere. As a matter of fact it would be a good time to do it.

Here's a release from International Nickel Company. They send me all their press releases. By the way, Inco has, in the last year, appointed a director—you're going to have to explain to me why they need this with the minister in charge in Ontario—they've appointed a director of government relations. I don't know why they would need that in Ontario.

Here's their release: "International Nickel"—I'll see if there's a date on this; November 5, 1975, "International Nickel advised Governor Wendell R. Anderson today", this is dated Minneapolis, "that it has decided to suspend further activity at it's copper-nickel project near Ely, Minnesota. Proposed sweeping changes in state policy relating to copper-nickel development was the principal factor in the company's decision, Inco said."

[1:45]

So there they were, telling the people in Minneapolis that they would not put up with that kind of taxation and would just simply not go ahead with their project.

I look at that, and then I think to myself, if that's par for the course, they have done it to us here too. Then I look at another press release dated June 17 and datelined New York, which is not an unusual place for an Inco press release to be dated from, in which they say: "Inco subsidiary building reclamation facility to convert mill wastes into remelt alloy. A plant in southwestern Pennsylvania to employ up to 100 in 1978."

I have one simple question: Where did the nickel come from? Why isn't it being done there, namely, in northern Ontario? They play both ends against the middle. When they find the taxes are too high, they simply say they will cancel the project. When it is to their advantage, they say: "If we are going to build a plant and a reclamation facility like this, we will go down and do it in Pennsylvania. It doesn't matter that the nickel came from northern Ontario. We can get away with it. There are no laws there that tell us that we don't have to."

I would urge you to take a look at those kind of statements that Inco makes and the kind of decisions they make and do something about them. They should not be allowed to do that. I will continue to read from the report briefly and I will leave this report then, mercifully; but I really had to take exception to this. It says, on page 17:

"Nickel and copper: the Sudbury area, International Nickel Company." It talks about the different mines they have there; then it says: "The hot dry summer (1975) impeded the vegetative stabilization of inactive tailings areas. Chemical stabilizers were used increasingly to control dust."

There is only one thing wrong with that statement. It is not true. I live about two miles from the very large tailings areas. During this period of time they are talking about, I still put my lights on driving on Highway 17 on a windy day when the tailings dust was blowing. I still came home from Toronto on a Friday afternoon in February and saw the snow on my front lawn covered with dirt from the tailings dust. When Inco was granted permission to expand its tailings area by the Environmental Hearing Board—John Root was chairman at that time—they promised they would be able to control the dust because the people in the area were concerned about that, and I suppose I wouldn't be as aware of it if I didn't live in the immediate vicinity, if I hadn't driven through the dust from the tailings area when it blows.

To let them use an excuse was just unacceptable. They should be held to their promises. One reason the people in the area didn't object too strenuously about the expanded tailings area was they were promised, and were assured faithfully, that the dust would be controlled, and yet it hasn't been controlled. I would give almost anything to know where that short paragraph originated. I would be surprised if it was within the bowels of the Ministry of Natural Resources.

I would like to turn briefly, if I could, to a very important speech the minister made, because I think it says a lot. It's remarks by the Hon. Leo Bernier to the 78th annual general meeting of the Canadian Institute of Mining and Metallurgy, Quebec City, April 26, 1976. The reason it's an interesting speech is who you were talking to. You weren't talking to the people of Ontario when you made that speech. Maybe that's why the words in it are different than you would say in a speech here. Let me remind you of some of the things you said.

Hon. Mr. Bernier: You are wrong.

Mr. Laughren: All right, I'll quote from it here and we will see. You gave the speech.

Mr. Bain: All he has said is where you gave the speech and you said he was wrong.

Hon. Mr. Bernier: He said I wasn't talking to anybody in Ontario.

Mr. Laughren: I didn't say that. I said that you were not talking to the people of Ontario. You were talking to some mining executives from Ontario, I am sure. Keep in mind this is April, after your December speech in which you granted the concessions to Falconbridge, which I will come to in a minute. On page 5 you said: "Delegates may recall that in December of last year I announced that this tax deferment"—this is the disallowance of foreign processing costs deferment—"step was taken so as not to deplete the cash flow of the companies during difficult times and to ensure they have the necessary financial resources to sustain employment in Ontario."

Well, do you know what you were talking about when you talked about having financial resources to sustain employment? Weren't you really talking about Falconbridge Nickel Mines? That's what you are talking about, because that was the primary beneficiary. I just wanted to remind you of what Falconbridge is, just in case no one has ever brought the corporate chart to your attention.

They are controlled by the Howard B. Keck family, of Texas, who in turn own 50 per cent of Superior Oil Company, assets \$660 million. They control Canadian Superior Oil, assets \$147 million. They also control McIntyre Mines Limited, \$189 million in assets. They control Falconbridge Nickel Mines, with assets of \$742 million. They control Falconbridge Dominica, assets \$225 million. I could go on because the chart is a full page of Falconbridge's corporate setup. To tell us, or to tell the people in Quebec City who were listening, that you gave them that deferment in order that they could have the financial resources during difficult times to sustain employment in Ontario is to laugh. It just doesn't make sense.

Then on page 6 you talk about the lack of uranium exploration. You say: "Rather than slow the pace of exploration, we in Ontario want to encourage more exploration. Exploration is the lifeblood of the mineral industry. To this end the government of Ontario is currently considering changes to The Mining Tax Act to encourage exploration."

Could I ask you a simple question? What ever happened to the Crown corporation to do exploration work in Ontario that you promised about two years ago? I remember it most clearly. I believe you said it in your opening remarks to one of the sets of estimates. It was a promise of a Crown corporation.

On page—I could quote from every page—on page 12: "The policy to promote more mineral processing has been a policy in Ontario since the turn of the century. For more than three-quarters of a century Ontario, through its policies, has consistently sought to promote increased domestic mineral processing. During these years we have witnessed the evolution of an industry from the pick and shovel to sophisticated new technology processing complexes. Today the mineral industry in Ontario is a mature, highly integrated component of our economic base."

Right on, Mr. Minister, but how come the jobs are still going down? Because it is more productive and you are not doing anything to compensate for that productivity to ensure that the level of employment in northern Ontario remains at least as high as it has been. You are even allowing it to decline.

Well, you go again, but I don't want to quote any more. You do mention increased semi-fabrication of our mineral resources; talking about that you say: "For example, the Inco facility in the Sudbury area for the direct rolling of metal powders is a step in this direction."

Yes, it is, and considering that Inco has been there 75 years, I think we could expect the odd development like that

You say then finally—the part that made me go in search of Mr. Duksza: "I might say here with respect to free enterprise, it is the only option for continued development of this province's mineral reserves."

Given the record in the past in the development of our mineral resources, I don't know how you can say it's the only option. It is certainly not the only option. As a matter of fact it is not even the most desirable option.

So I think that you might tell us too, when you are responding, why you think that there is a downward trend in exploration in Ontario. At one time when you are speaking you say you are afraid it is because of the onerous level of taxation. Another minute you say it's because of the socialists in Saskatchewan and BC that have frightened off development. And then you say to this group of people in Quebec City, "the

search for minerals in the accessible parts of Ontario has gone on so long that the odds against making a significant new discovery by conventional means are growing longer every year. In the future, most new major ore deposits will be found at greater and greater depths."

I suspect that's the truth. You don't need to bring in all the red herrings, the socialist scare, that you're so fond of doing.

I've got to deal with this part of your speech. You've got a separate section in your speech called 'Safety First'. I became apoplectic at this point.

Mr. Haggerty: It sounds like the Minister of Labour down in Mississippi speaking.

Mr. Laughren: Yes, with the new accord. You said something in that speech which bothered me then and it bothers me more now because of recent events. You said, "Our standards are being set so that insofar as medical science can determine there will be no appreciable risk to human health in the mines of Ontario. [That was bad enough.] We recognize that this will put us at a disadvantage relative to other jurisdictions who perhaps accept less stringent standards or enforce them less rigidly. But we believe that if we are right this disparity will be short-lived. If we are proven wrong then we can adjust our policies."

What the hell do you mean by "we can adjust our policies"? You can adjust your policies on safety? What you were saying in this speech was that we're going to have tough safety standards but if we're wrong, if the disparity is not short-lived, we'll adjust our policies and it will no longer be safety first. That's what you're saying.

Then, of course, you said, "We accept the Ham commission's recommendations without reservations. We embrace them, indeed," after its release. That's the kind of double talk we don't need. And you wonder why groups in this province don't believe you when you try to assure them that you are not speaking with a forked tongue. There is ample evidence, historical evidence, which indicates that they don't dare trust what you are saying.

You say, "In Ontario we acknowledge the importance of government staying on top of the situation, backed up by professional expertise and the soundest findings of new technology and research."

You are going to have to tell me how it is you can make a bald statement like that, given the record of your ministry in the

mines of northern Ontario. It is not as though this was something that happened long before you knew the problems.

You knew full well the problems in asbestos mining. When the Reeves mine was in operation, when the United Asbestos mine was in operation, you knew full well the dangers. Perhaps in the early days of uranium mining you didn't understand all the problems but you bloody well did understand all the problems in the asbestos mining and milling and you did nothing about it except rush to the defence of the asbestos companies. That's what you did.

For you to make a statement like that to the people in Quebec City is totally unacceptable. As a matter of fact, if there wasn't so much at stake it would be a joke.

I would like to talk briefly about a speech you made as well, on December 23, 1975, and that was shortly after the layoff announced by Falconbridge. The Falconbridge strike occurred in the fall; it went on for days and then a settlement was reached between the company and the union.

The union called its workers back and said "We've reached a settlement you can start work on such-and-such a day." This was at a membership meeting on a Sunday afternoon in Sudbury. Four days later, Falconbridge said "We're laying off between 400 and 500 men"—after they had allowed the union to call back the workers, some of whom had had jobs elsewhere and had quit them to come back for the startup again.

I ask you, what kind of corporate morality is that? Any company that would do that has the morals of a clam. I want to tell you that when they said that, when they did that, we accused them of not living up to The Employment Standards Act. Oh, no, the government wouldn't do anything about it; it didn't pursue it. The union, the United Steelworkers of America, which had white collar employees working at Falconbridge, along with the Mine Mill Union, decided to pursue the matter further. Within the last couple of weeks it was ruled that Falconbridge had laid them off illegally, without sufficient notice, and they are going to get 12 weeks' termination notice. That's going to cost Falconbridge \$1 million. The company is appealing it naturally.

[2:00]

Where were the various ministries of this government when that happened? Why is it that you never rush to the defence of the workers in a situation like that? You sure rushed to the defence of United Asbestos

when they were in trouble but never the workers, never. Yet they're the ones who make the whole thing possible.

To go back to your speech, If it was written in your ministry I would be very surprised.

"In May of last year we became aware of Falconbridge's plans to further renovate and expand the Kristiansand refinery [that's in Norway] at a cost of some \$30 million. This change involves the application of new processing technology. [Here's where it gets bad.] We have been informed that among the factors behind this decision to renovate were obsolete equipment, high labour costs of the existing process and the recognition of a high incidence of cancer among refinery workers.

"Falconbridge has attempted to develop processing plants in Canada but has been unsuccessful. In 1972 the nickel-iron refinery at Falconbridge, Ontario, built at the cost of \$65 million was shut down because of insurmountable technical problems and severe economic difficulties. The loss to Falconbridge was \$74 million.

"It is at the present time economically impossible for the company to jeopardize the existence of an extensive refining complex, linked with the Canadian operation and the European market, with the compelling advantages of abundant cheap power and a skilled work force.

"Is it realistic [asked Mr. Bernier] for the government to expect them to shut down such an installation in a period when others are willing and able to supply? It is also a point that a definitive interpretation of the present regulation on processing would place in jeopardy between 2,000 and 3,000 jobs in Norway and Wales."

Isn't that interesting? The minister is worried about jobs in Norway and Wales a lot more than he's worried about the jobs in northern Ontario, I can tell you.

I ask you—when you made that statement about the recognition of a high incidence of cancer among refinery workers in Norway, what did you do about it? Did you make any inquiries? How different are processes in other refineries here? Not Falconbridge's refineries here; they don't have any.

You say that the loss to Falconbridge when the refinery didn't work was \$74 million. A loss to Falconbridge? We lost. Falconbridge ended up getting tax write-offs, deferments and now special concessions as a result of that. If you could ever hire a good auditor to work out all the way through

exactly what that \$74 million cost Falconbridge, I suspect it would be a very small amount. The real people who have lost are the people in northern Ontario, who don't have the jobs.

Then you go on to say: "As a result of all the considerations I've outlined the government proposes to defer for five years the disallowance of foreign processing costs in the assessment of the mining tax on the producer."

What you are saying there, in ordinary language, is that Falconbridge can write off its foreign costs on its Canadian operations. Isn't that a delightful way to maintain jobs in northern Ontario and encourage further processing in this province? You said,

"This step is taken so as not to deplete the cash flow of the companies involved in these difficult times."

I weep for Howard Keck, Superior Oil, McIntyre and all that corporate structure known as Falconbridge. Then you say,

"To ensure they have the necessary financial resources to sustain employment in Ontario."

Sustain employment? They had just laid off over 400 workers.

Falconbridge had a bad year last year. It earned, I think, \$3.2 million; a little over \$3 million. In the last eight years do you know how much Falconbridge has earned? It has earned \$228 million. That's the company you're worried about, Mr. Minister. Because they only earned \$3 million you're upset about them; you think they need protection. Yet in eight years they earned \$228 million, which I count up from reading the Falconbridge annual report; \$228 million and you're worried because they had a \$3 million profit in one year. Well, you have a distorted sense of what kind of taxes should be paid. Then you go on: "Along with the proposed allowance for out-of-Canada processing"—that wasn't enough you see. "—the government will, by order in council, grant the Falconbridge company a further four-year exemption under section 113 of The Mining Act." I believe that, for the uninitiated, is the exemption that allows them to ship ores to Norway in the first place.

Now we have the double jeopardy—you've got the need—the exemption, which says they should be processing here; you've given them an exemption, let them ship to Norway and then let them write off the costs of the processing that's going on there against the Canadian operation.

Mr. Haggerty: Did they build the plant in Quebec, though?

Mr. Laughren: No, they didn't. That's another one. They didn't build the one in Quebec either. Falconbridge is some kind of corporate citizen, I want to tell you.

In your speech further on you praise the mining industry for maintaining stable employment in northern Ontario. Gee, I really should look that up: "The mining industry has been a stable contribution to the economy of northern Ontario during the last 35 years or more."

Tell that to my friends from New Liskeard, the Kirkland Lake area, from Timmins. Tell them that, that it's been a stable influence for employment in northern Ontario.

I'll leave the corporations alone for a moment—the minister will look after them—and talk specifically about safety and health. I know that it's being moved. It's not moved yet; it's still in these estimates and I won't dwell at undue length on problems in the past. We hope that those will not be repeated.

But there are some things that still bother me a great deal. One is the slowness with which we are proceeding toward an apprenticeship programme for miners in the province. I know there are committees working on that and I'm hopeful that that will be resolved. But that should have been done before this.

For example, Inco is operating in Manitoba and their programme began, I think, a year ago, in January, 1975, so they obviously were ahead of us in preparing for that. In Ontario though, when Inco hires a miner he gets two weeks' training and then he goes underground and works in what are sometimes dangerous conditions. In Manitoba they have a programme which offers a three-year apprenticeship period with five weeks of schooling the first year, six in the second year and five in the third. The remaining time is spent on the job. But it really is gross to send a young man underground with two weeks' training.

I have here a report on mining fatalities. I made the mistake of spending an evening going through them. I don't, in any sense, mean to be—

Mr. Reid: Provocative.

Mr. Laughren: No, I'm not thinking of that—to play on emotions.

Mr. Sargent: Like Margaret Birch does.

Mr. Laughren: I don't want to do that. I can tell you that I really had a sense of des-

pair almost when I had finished reading the report because it was very substantial and gives a lot of information on fatalities, inquests and the description as to how the accident happened and what led to the death. But what struck me most about all the statistics were the ages. That really bothered me.

I looked through here—and these are the fatalities in the Sudbury area and I don't think it would do any good to put the names on the record, that wouldn't solve anything. I'll just read you the ages of the fatalities. This is from 1970 and working back:

Age 21, 23, 20, 31, 21, 17, 22, 22, 20, 20, 23, 23, 38, 18, 33, 26, 41, 20, 22, 22, 36, 35, 33, 25, 21, 17, 23, 19, 26, 60, 23, 23, 25, 19, 29 and 21. These are the ages of the men who were killed, 70 going back to 1964. I didn't even notice this at the beginning, although I was trying to find some argument to support the apprenticeship programme, but the other thing was to look at the seniority of the people who were killed. Reading down the same list I just read with ages, these are the dates they started and the dates they were killed: November 16, 1969-February 16, 1970; June, 1969-January, 1970; May, 1970-July, 1970; September, 1969-May, 1970; May, 1969-October, 1969; June, 1969-June, 1969—that was 10 days, from June 18, 1969 to June 28, 1969—

Mr. Bain: And he was 17.

Mr. Laughren: —March 7-March 31; January, 1969-March, 1969; April, 1969-April, 1969—two weeks; October, 1967-August, 1968; June, 1968-August, 1968; January, 1968-June, 1968; April, 1968-May, 1968; February, 1968-February, 1968—seven days; October, 1967-December, 1968; October, 1967-April, 1968; December, 1967-February, 1968; February, 1968-May, 1968; January, 1967-June, 1968; September, 1968-November, 1968; August, 1966-March, 1967; August, 1966-December, 1967; May, 1966-February, 1967; February, 1967-March, 1967; June, 1967-August, 1967; November, 1966-February, 1967; July, 1967-July, 1967—17 days; October, 1967-October, 1967—12 days; March, 1967-March, 1967—21 days; June, 1967-November, 1967; September, 1967-October, 1967; October, 1964-November, 1964; June, 1964-September, 1964—unknown; April, 1964-June, 1964.

It's really striking the low seniority of those people who were killed in the mining industry in the Sudbury area. It's an indication that mining is obviously dangerous but also more sophisticated than most people

realize. It's probably become more sophisticated; it may have almost snuck up on the industry, I don't know. A lot of the problems, I think, could be prevented, and obviously the union thinks that there could be tremendous changes made as well.

Some of the things are better training, which I mentioned—it wouldn't solve them all but some—and better lighting. That's something that is not mentioned, I don't think, in the Ham report. That should be pursued by this minister without any kind of urging or any hassle. You have been told about that; the union has been bugging you for years now about lighting underground, and nothing seems to happen.

There has to be a really serious attempt. Just because safety and health in the mining industry are moving from Natural Resources to Labour doesn't mean—I don't imagine it means—that the minister suddenly can wash his hands of that responsibility because he still controls the industry. One of the big steps, I believe, is giving the workers the say in safety. I think that will make a bigger difference than anything else.

The question of seniority is important as well. I hope it improves tremendously. In International Nickel alone this year, I believe we have had six deaths. I think in the Sudbury area there have been 11 this year. There were three just last week, as I am sure you know. We are concerned about it. Everybody is concerned about it but it is a question of what we do about it.

Some of the things may not seem terribly important but I think they are. Those are things like safety rules being printed in French as well as English. A large proportion of the work force in the mines at Sudbury is French-speaking. It is their first language. The safety instructions should be in French as well. Any instructions should be available in French as well.

[2:15]

The other thing that happened last week was that a worker handed a grievance to a company man and he refused to accept it because it was in French. That's the sort of thing that has to change. That should be a basic right in the industry. Aside from the matter of civil rights that should be changed for safety purposes, I would hope that the minister won't wait in all cases for the Minister of Labour to make changes.

Another thing is the whole matter of inquests. Not too long ago, I attended the inquest that was held on Mr. Beals and I thought to myself that it might be cruel, but

if you could have televised that inquest across Canada and convinced people to watch it—it would be a bit masochistic—there would be some pretty substantial changes fairly quickly, because what went on at the inquest was really eye-opening. It was revealing to hear the description, delivered in a monotone, of the conditions under which the accident happened, and to see the pictures of the accident and the accident scene.

It was dismaying to hear the response of the company. At one point the lawyer for the Crown said: "In your opinion, do you think that the bonus system contributes to accidents?" And the response was: "Oh no. On the contrary, we find that most of the accidents involve people who are not on bonuses."

I think it would be a very nice assignment if the minister would take it upon himself and his ministry to check into International Nickel Company's records. I believe—I didn't get this in a brown paper envelope, but I would love to—there are statistics that show the relationship between bonus operation and accidents. I don't know whether they will give it to you, but I would sure like to have that information. The union is saying it believes—and I think most of the workers say this—that you should be able to have bonus with safety. I don't know. But I don't think there has been enough research done on it to determine whether that is possible or not.

I'll complete my remarks by saying that this ministry has had a troubled time with the occupational health field in mining. I think mainly because of a lack of commitment; I must say that. There has been ample opportunity for attitudes to change within the ministry, but they haven't changed. I use the word "attitude" deliberately because of something that came out of Saskatchewan. I don't know whether you have ever heard of the Deputy Minister of Labour in Saskatchewan, a man named Mr. Robert Sass, but this is what he said about safety and health—and I think it is a nice philosophy and one that we should pursue:

"We must address ourselves to the causes of human damage in the place of work. Traditionally, doctors have viewed silicosis as a problem of the lungs when, in fact, it is a problem of the hardrock mining industry. The problem of going deaf is not only a problem of the ear or ageing but of the mill. Yes, noise damages the ear, but the problem is the mill. It is not sufficient to immediately attack the worker by stuffing his ears with bissholm. This does not reduce the

noise level within the working environment. We must first consider the muffling of the sound and, when we are satisfied that the cost is prohibitive or technologically unfeasible, then we should consider protective devices.

"We have to be concerned with the working environment—the chemicals, dusts, mists, vapours, noise, solvents, temperature, ventilation, the floor you stand on, the pace of an assembly line and back-breaking work."

So the emphasis in Saskatchewan has been on the work place and not on the worker. I very much hope that the new occupational health branch in the Ministry of Labour will use that attitude.

They deliberately do not have a doctor in charge of occupational health in Saskatchewan because they don't want it to be a curative role that they play. They want it to be a preventive one. It's an engineering problem, in other words. So they've deliberately done that. I don't want to prejudice the assistant deputy minister but I notice that it is a medical person that the Minister of Labour has appointed—and I'm not prejudging for a moment. I certainly hope he will do everything he can. I think it's terribly important to do this.

I will conclude by just saying that most of us know we would not now be facing a new occupational branch in the Ministry of Labour, there would not have been a Ham commission, and there would not be new legislation dealing with all sorts of problems in the work place if this ministry had done its job in the past. I've said it before and I would not be honest if I did not say it again: I am amazed that this minister is still a minister. It's a terribly important portfolio. We regard it, certainly I do, as one of the most important portfolios in the government. The track record is truly dismal. I see it as being particularly dismal in occupational health, but I can tell you that I see it equally dismal in the whole area of resource development and the whole area of economic development of Ontario. I don't know how many embarrassments are going to be piled on other embarrassments before the government realizes this and makes some changes.

Hon. Mr. Bernier: Mr. Chairman, my remarks will be brief. I think I've heard this socialist approach—

Mr. Laughren: To occupational health.

Mr. Bain: That political approach won't solve the problems.

Hon. Mr. Bernier: —to health problems and to mining problems three, four, five or six times. It's great. From the member's point of view we're diametrically opposed.

Mr. Laughren: I noticed that when I started.

Hon. Mr. Bernier: There is just no question. You believe in one philosophy and I believe in another. I strongly believe that the private sector has a role to play in the development of our resources. We agree, I guess, on the importance of the development of those resources in the initial phase of economic development for our province, leading to secondary development or industrial development. I think we've agreed on that. On how we get there, of course, we have opposing political philosophies.

I get a little frustrated, really, listening to the socialists at work. They condemn this government for trying to create jobs, trying to keep the northern part of this province developing and opening up. We assisted Falconbridge in their difficult times to maintain 600 jobs.

Mr. Bain: Tell us about the jobs in the gold mining industry.

Hon. Mr. Bernier: I didn't interrupt the gentleman when he was speaking, so let me speak. Gentlemen of the committee, I just want to remind you that the day I made the statement concerning the five-year deferral for Falconbridge, Mr. Renwick was at the press conference. He looked at me and he said: "We'll deal with this in the Legislature." That was a year ago. One of the members from Sudbury, his only comment was: "We'll nationalize them." That was his only response, and they were scared to go any further because they knew full well that we maintained 600 jobs in the Sudbury area. There was no mention of that.

A year later he comes forward, a great defender of the third world and all the problems they have down there. What the companies are doing down there I don't know and it really doesn't bother me that much. It's their corporate image and I have my hands full in the province of Ontario, as the member has correctly pointed out.

Mr. Sargent: Must have been damn good politics or you wouldn't have done it.

Hon. Mr. Bernier: On the one hand they condemn this government for doing certain things in regard to mineral taxation; to directing development in northern Ontario

as we've done in the Timmins area; as we've done to encourage Inco in its new industrial expansion: with our tax incentives. We've got problems in the gold mining industry. The same party stands up in the Legislature and wants this government to subsidize the gold mining industry to keep those jobs in place. I tell you, you can't have it both ways—

Mr. Laughren: I don't recall that.

Hon. Mr. Bernier: —with all sincerity. Yes, the member for Cochrane South was crying on my shoulder to subsidize the gold mining industry and you condemn us for giving little concessions to keep our people at work, to keep the economy of northern Ontario moving ahead.

It's difficult to fathom. It's difficult to deal with. It's frustrating because there's no consistency to the arguments. They are made, I think, in political heat, I suppose, to appease people back home.

As an example, the hon. member questions what Sudbury is getting back from the resources. I've always accepted the fact that the resources belonged to all the people of the province of Ontario but he's not concerned about that; he wants Sudbury to get a special bonanza. The people in Huron-Bruce or Owen Sound are not entitled to the benefits derived from the resources in this province. They have all got to go to Sudbury. Those kinds of philosophies and those kinds of arguments are very difficult to accept. You've got to look across this world and our world is getting smaller and smaller all the time.

We see what happened in Sweden, with those socialist philosophies and those policies. We saw what happened in New Zealand. We saw what happened in Australia and that country is so close to ours when it comes to being a new country developing its resources. There was a complete turnaround; really, a complete turnaround and it's going today in the direction this province is going.

They are allowing free enterprise to move in and do a job. They are getting the public sector out and getting away from the bloated bureaucracy—to which the NDP members refer on the one hand while asking us to take over on the other.

These kinds of shifts back and forth are just to suit their political whims at that particular time. It might make good reading—I guess you could tie it to the Regina manifesto; I suppose you could be part of it. Maybe you should take the speech you've

given us today and put it as an appendix to that great manifesto which you have cherished for so long.

Mr. Laughren: That's a great compliment thank you. I appreciate those remarks.

Hon. Mr. Bernier: Speaking about what's happened in Sweden and Australia—

Mr. Laughren: A minute ago you couldn't deal with the other world.

Hon. Mr. Bernier: —and we know what happened in BC. They had three years of a socialist government with those great mining taxes and the thrust that was going to throttle and get more for the people of BC—

Mr. Cunningham: Did the Treasurer write this?

Hon. Mr. Bernier: The people of BC woke up after three years and found out what was happening to the mining industry and the forest industry and their province.

Mr. Laughren: When are you going to deal with the province of Ontario?

Hon. Mr. Bernier: Where are they today? They are out on their ear, as has happened and will happen in other areas.

Interjection.

Hon. Mr. Bernier: I have the opportunity of meeting with people in the financial world, the people from around this world who are involved in financing, even in Ontario and in Canada. I can tell you the takeover of the potash industry in Saskatchewan has ricocheted around this world.

Mr. Laughren: Nonsense.

Hon. Mr. Bernier: It has shaken the economic community or the financial community.

Mr. Laughren: Total balderdash.

Hon. Mr. Bernier: They look at us in Canada today and say "Saskatchewan is Canada and it will eventually happen to us if we move in there."

Mr. Laughren: Could I ask a question?

Hon. Mr. Bernier: No. Straight confiscation, that's what it is. I can't accept it, that's all. I suppose I could get heated up and annoyed at some of the arguments which are put forward in a socialistic, simplistic way with all the answers to some very complex problems.

This province has not reached the year 1976 with the massive mineral development

we have in northern Ontario under the policies you are announcing and promoting today. There's a change in northern Ontario such as you haven't seen.

Mr. Laughren: You'd be wiped out.

Hon. Mr. Bernier: The recent comments of this particular party and the waffling and the playing of north against the south—their chickens are going to come home to roost. They're starting right now. They've dug their grave and all we can do now is put a tombstone on it.

[2:30]

Interjections.

Mr. Bain: We've been digging it over the years. If we dig it any deeper we'll have all the members in northern Ontario.

Interjections.

Mr. Chairman: Order, please.

Mr. Sargent: There was a big convention, a dog food convention, and the man said, "Who has the best promotion in Dog City?" "We have," all the guys said. "Who has the best PR in Dog City?" "We have."

Then he said, "Why in hell aren't we selling more dog food?" They said, "Because the damn dogs don't like it!"

Hon. Mr. Bernier: I can tell you the people in northern Ontario don't act like that. They'll speak out when the time comes and the sooner you give us the opportunity the better—

Mr. Bain: They don't like inequality, that's what they don't like, and that's what you've given them.

Hon. Mr. Bernier: —because the winds are blowing right in your faces.

Mr. Laughren: When are you going to direct yourself to the questions I raised?

Hon. Mr. Bernier: I want to touch briefly on the decline in exploration in the province of Ontario, and indeed Canada. The member made some reference to it.

I think we have to accept the fact that there are depressed world conditions, a decline or lowering in the metal prices. There are high costs of operation in Canada. Taxation, which I said publicly gives me some concern, particularly at the federal level.

We all know the uncertainty that the federal government has thrust on the mining industry and when one thinks that it takes eight years just to bring an ore body into

production, you have to have some stability, some long-term stability, to obtain the necessary capital to develop some of our iron ore bodies and our mineral bodies.

Just a month ago I had the pleasant experience of opening up Umex Mine at Pickle Lake. Eight years they searched across northern Ontario. They looked over 200 separate anomalies—200 of them—drilled them, looked at them, and went over them with a fine-tooth comb. They spent over \$100 million of their own dollars to develop that particular ore body.

Today they are established; they are employing 400 or 500 people in the Pickle Lake area. There's new life, there's new vitality in that particular area, and they did it with their own money.

Sure, we'll tax them and there has to be a fair return to the people of the province of Ontario. And we did adjust our tax base a couple of years ago on an index escalating basis from 10 per cent to 40 per cent, and I didn't see any compliments flow in our direction from the member.

The province of Manitoba, to which he referred—my good friend Sidney Green, the Minister of Mines in that particular province, came forward with his strong, socialistic taxation policy. What did he do? He threw it on the desk of the Legislature; his very astute leader, Premier Schreyer, looked at it and within a matter of weeks he had withdrawn it. Because he knew, the leader of that particular party in Manitoba realized they had gone too far. They have readjusted completely their taxation policies because they knew full well what was going to happen in BC and the reaction of the industry in that particular area. So we've seen a real turnaround with regard to some of the policies in the province of Manitoba.

Another area that is causing a decline in exploration is the high cost of exploration itself. Of course, the surface in northern Ontario basically has been gone over. In other words, the ore bodies or the outcroppings have been carefully gone over by the prospectors and many of the mining companies, so that now we have to have a more sophisticated geological approach. More sophisticated equipment must be used to go beneath the depths of the overburden and to get down under and find those ore bodies that we know are there in northern Ontario. So those things, coupled with the fear of socialistic tendencies that could sweep Canada—

Hon. Mr. Bernier: —our federal government today not being the strongest—

Mr. Laughren: You don't believe that, do you?

Hon. Mr. Bernier: Yes, I certainly do.

Interjections.

Hon. Mr. Bernier: That's for sure. It gives me some fear. The area to which the member referred that has attracted a lot of my concern and a lot of my attention has been the health and safety aspect of the mines. As you know, we established the Ham commission to look into the health and safety of our miners. I have to concur with the statement of the royal commissioner when he said the most important thing to come out of our mines are the miners. That's a statement that I've always believed in and we have worked to that end. In fact, at our appearance before the royal commissioner—and it's very unusual for a minister of the Crown to establish a royal commission and then to appear before it—we documented a long list of recommendations which we put forward after careful examination and, I'll admit, some prodding from the opposition—there's no question about that. We reviewed those comments and I expressed my appreciation to those who had engaged in those debates.

We pulled together what we thought was a positive and fair approach to protect our miners and to make sure that they do come out of our mines. I am pleased that all of those recommendations which we made are basically incorporated in the 117 recommendations that Professor Ham has come down with. I'm particularly pleased that we're getting on with the job of pulling the whole aspect of safety together into one ministry. I think that's a major step forward. The recent legislation that the Minister of Labour has introduced will also be a major step forward in correcting a long-outstanding situation.

I think the member is aware that we have an active committee working on the revisions to The Mining Act. I'm hopeful they'll be prepared and ready to come forward with their recommendations early in 1977. It's a very extensive committee in which labour, industry and government are working together to make The Mining Act one of the best in the world. I say that with a great deal of pride because many nations and many countries today are asking us for copies of our Act, wanting to know where we're going with it and how we're improving it, and we'll

Interjections.

make it available to them. We should have that for presentation, hopefully, in the spring and I know that there'll be a tremendous amount of input from the members when that does come forward.

The certification of miners has been something I've been intensely interested in and concerned with and active in pushing. The Ministry of Colleges and Universities, along with management and labour representatives, are moving ahead in this particular field, so that we can put all our efforts into reducing the number of fatalities and improving the training to those new personnel that are being invited to the mines of this particular province. That just about winds up my remarks.

Mr. Sargent: Wasn't that a shocker, the figures that Mr. Laughren gave you there?

Hon. Mr. Bernier: Yes, I'm very much aware of the problems. The mining industry is a very risky industry.

Mr. Sargent: The time factors involved for non-trained people.

Hon. Mr. Bernier: There's no question about that. This has come forward loud and clear to us. If we can get some certification of the miners themselves and a proper long-term training programme, hopefully, we'll rectify the situation to which the hon. member is referring.

Mr. Sargent: You are going to do that?

Hon. Mr. Bernier: Yes.

Mr. Reid: Can't you have regulations, though, that require a minimum training period, particularly before they're sent underground?

Hon. Mr. Bernier: I don't know if we have that in regulation now. Mr. Jewett, would you or Mr. Peter McCrodan comment on that?

Mr. McCrodan: As far as I'm concerned, we do not have any regulations that call for specified training. This is a voluntary setup.

Mr. Reid: Don't you think it's something that could be done within a short period of time?

Mr. McCrodan: No, it's not something that can be done in a short period of time. It takes time to set up courses. The training can be extended certainly, but to get a meaningful training programme going, which has started now, means a blend of about 10 different programmes that are coming under

one unified provincial programme that's really administered by labour and management with equal status.

Mr. Reid: I don't mean that, sir. I don't mean the setting up of the courses. We seem to be able to pass regulations without hardly anyone knowing about them until somebody shows up to enforce them, if they do. Perhaps I should direct this to the minister: Can't we have a regulation specifying a minimum number of hours of training and/or experience, particularly before the miners go underground, where the fatalities are, or before they handle heavy equipment?

Mr. McCrodan: This is being undertaken in the new Mining Act.

Mr. Laughren: I might add to that. It wouldn't be a major problem to set up a programme because of the Manitoba model—not because it's Manitoba, but because there's a nickel mine there and I would think it would apply to most of the mines in Ontario. It is not like the difference between a potash mine and nickel mine. Most of the mines in Ontario are along the model of the nickel mine, so I don't see any reason why that couldn't be done for nickel.

Mr. Sargent: Mr. Minister, I think a good lawyer could initial a class action against the government and the mining companies for having a licence to kill, according to those figures he has given us. A class action would be a hell of a good case that you might win in court and, with all those families involved, might involve millions of dollars of damages.

Mr. McCrodan: Mr. Minister, to return to training, the Manitoba course has been examined and on November 4 we should have a report from the two groups that are working on it right now, labour and management. I think that out of this we are going to finally get something that will put together a really good series of courses. You don't just begin with a course and turn a fellow loose. You have to work at it. It has to be meaningful and it has to be something that encourages them to look at safety themselves and not bypass it. That's one of the things that—I could read you a list of accidents in the last year, and there are darned few of the guys in the younger class; a lot of them are in the older class, real old sticks of 55 and so on—

Mr. Sargent: You call them old, do you?

Mr. McCrodan: I can call them old!

Mr. Laughren: Are you involved at all? Can you make recommendations on who sits on an inquest into a mining death?

Mr. McCrodan: No. We just have the input from our own inspectors in that regard. It is the coroner's inquest.

Mr. Laughren: I see. But surely the ministry could make a recommendation that miners be allowed to sit on the jury so that you have somebody with knowledge of underground mining on the jury.

Mr. McCrodan: They have been able to sit as representatives of the family, and they have been able to be called as witnesses at all times; so there is a pretty good input from that.

Mr. Laughren: Not true. How can you say that?

Mr. McCrodan: Well, I just did three days of it a week ago.

Mr. Laughren: So did I, but the people who are sitting on the jury are the ones who make the recommendations—not the person who is giving testimony.

Mr. McCrodan: I see what you mean. No, that's the coroner's decision.

Mr. Laughren: Yes, but certainly the ministry could have input into that. Surely it makes sense to have someone on the jury who understands underground mining.

Mr. McCrodan: I would agree with you on that.

Mr. Laughren: Let's get it changed.

Mr. Chairman: Mr. Reid is the next speaker.

Mr. Reid: I'll yield.

Mr. Chairman: You'll bow to Mr. Haggerty?

Mr. Reid: Yes.

Mr. Haggerty: Thank you, Mr. Chairman. For a moment I thought we were going to cross swords again.

I want to add a few comments on this particular item, which deals with mineral management in Ontario. Perhaps I should repeat the comment of our leader, Stuart Smith, to the minister the other night, that we in the Liberal Party do support the free enterprise system. I would have to agree with the minister on a few of his comments.

It is always interesting to listen to the socialists. He was quite right when he said they

have their opinions as they relate to political philosophy. But if one looks to Britain, and the nationalization of the coal and the steel industries there in the middle 1940s, one will see that labour was led to believe that things were going to be nice and rosy for them. But the promised security and prosperity of a new life resulting from nationalization and the welfare state was a lie. One can refer to the continued manifestation of conflict in labour relations and the working conditions that still exist in the coal mines in Britain today. So I think I would be frightened of the word "nationalization."

When we look at the province of Saskatchewan, they have a government that wants to take over the potash mining industry out there. But where do they have to go to borrow the money to finance it? They go to a foreign market, the United States, and from talking to a number of persons who are in the mining industry in Ontario, they are looking for 10 and 12 per cent on their money. I think that's perhaps one of the easiest ways for them to get it—go to the States and refinance it through the States and get their capital that way at 10 or 12 per cent. So when you look at it, to me it's a complete sellout in the sense there is still going to be a foreign investment takeover of the potash mines there.

[12:45]

Hon. Mr. Bernier: Barrett went to Japan and Schreyer goes to the United States too.

Mr. Haggerty: He goes to the States to get it. But when they go about the nationalization of these mines in Saskatchewan, there is a certain loss to the rest of Canada. There are no federal taxes generated, as I understand the programme out there. They seem to want to balkanize a particular province and generate all the revenue for themselves. There is none of it that's on a sharing basis with the rest of the provinces. I think this is another thing that frightens me about nationalization of our industries.

We have difficulties here, as our leader mentioned the other night, with the slack in the mining industry in the Province of Ontario. I suppose I could get into reading some of the comments from the briefs submitted to the government and to perhaps all members in the Ontario Legislature. This is from Natural Resource People Canada Incorporated, March 1, 1976:

"Crisis in Mining Exploration and Development in Ontario," is the heading. "Mineral exploration and development in Ontario have

fallen to unacceptable levels and threaten to decline almost to the vanishing point. This has serious implications for the province:

"1. Employment opportunities in areas dependent on resource industries, especially northern Ontario, are already severely curtailed and the situation is getting worse.

"2. New ore deposits are not being found and developed to the extent necessary to protect Ontario's economic future.

"There are several reasons for this crisis situation."

Of course they go back and say they mentioned about the recent decline of price of some metals, and notably copper. As I look at the market, copper has been up and down in the last 15 or 20 years. It is still a favourable metal and a favourable profit still is generated by it. I think one of the reasons they mention it is that there are problems with the junior companies to generate enough capital to bring in the mines.

You can go back to the Prospectors and Developers Association and its brief.

"Brief on the Decline of Exploration in Ontario and Canada," is the heading. "The P & D Association is greatly concerned about the decline of exploration in Ontario and in Canada, especially by the individual prospector, the small syndicates and the junior exploration companies.

"Although the statistics quoted below tell part of the story and show an overall decline in exploration, the numbers do not entirely reflect the total number of small explorers being forced out of business as a number of multinational oil and mining companies, foreign utilities and government or quasi-government organizations have filled part of the void. However, we do not believe that these groups will create the same number of Canadian-owned companies, nor provide as great a long-term benefit to Canada, as would a similar amount of expenditures by smaller organizations.

"The sad facts are: 1. Exploration expenditures in Canada have declined from \$122.7 million in 1970 to approximately \$81.1 million in 1974, using constant 1971 dollars. Figures for 1975 and 1976 are probably lower. Ontario's share of these expenses dropped from \$33.2 million in 1970 to \$14.9 million in 1974, a decline of 55 per cent.

"2. Claim staking in Ontario has declined from 40,693 in 1970 to 19,761 in 1975, a drop of 51 per cent. The average for the past five years of approximately 21,000 claims is only half of the average of the

40,000 claims staked in the previous five years.

"3. The number of mining licences issued and renewed in 1975 was down to 3,380, an all-time low since 1920. This indicates a tremendous decline in activity since the mid-1950s when 15,000 licences were issued and even from the mid-1960s when approximately 8,000 licences were issued.

"Another indicator of exploration activity, both by large and small companies, is diamond drilling. Surface drilling (exploration) is decreasing and has dropped from 875,000 feet in 1970 and 1971 to 720,000 feet in 1975 (down 18 per cent) and an estimated 660,000 in 1976 (based on seven-month figures).

"For the first time since 1945 no new mining-milling operations are under development in Ontario. The Agnew Lake uranium mine, which is a leaching operation, will reach production next year.

"The reason for the above decline is due to a large part by the decrease in junior company financing. The raising the risk capital in Ontario has declined from \$50 million level in the mid-1960s to only a few million level in 1976. We are currently trying to get actual numbers from the Ontario Securities Commission. The Toronto Stock Exchange numbers are shown at the end of this brief. If the numbers are converted to constant dollars, the decline is even more staggering.

"The reasons are well known and include:

"(a) increased taxes at both the provincial and federal levels, which have made some present operations marginal and reduced the incentives to explore for new mines;

"(b) constantly changing taxes and in some cases, taxes at confiscatory levels which have destroyed investor confidence and prevented long term planning;

"(c) introduction of capital gains taxes on risk capital;

"(d) elimination of section 83A on prospectors' incomes;

"(e) new attitudes in the bureaucracies of the Ontario and Quebec Securities Commissions which have all but eliminated the raising of risk capital for exploration;

"(f) federal government export controls of uranium and copper and FIRA controls have confused, delayed and hindered the raising of exploration funds from foreign investors;

"(g) increased capital and operating costs in Canada versus other areas of the world;

"(h) lack of incentives for Canadian workers to work and live under tough conditions in the north." I think that's a rather important one "lack of incentives for Canadian workers to work and live under tough conditions in the north."

"(i) increasing difficulty in discovering new mines (i.e., the easy ones have been found);

"(j) changing emphasis from gold-silver to base metals and uranium and changing technology."

And, some of the recommendations:

"There are many methods to encourage exploration in Ontario and in Canada. The magnitude of the changes and a number of incentives implemented will, of course, influence the amount of increased exploration.

"Our recommendations are as follows:

"(a) Negotiate a federal-provincial agreement on resource taxation with a reasonable ceiling on total taxation (i.e. at least no higher than other industries). Establish some stability in the tax system, instead of continuous changes. As there is a long time span (10 years) from exploration to production, a stable tax environment is essential."

I think the minister has replied to the member for Nickel Belt (Mr. Laughren) almost word for word with that particular paragraph.

"(b) Encourage risk capital investment by both public and private financings. If the mines can make a reasonable profit, people will invest; if they can't—no investment. Changes must be made in the administration of the various securities commissions so that the companies can raise risk capital. Some changes must be made to the capital gains tax to encourage people to risk their money.

"(c) In Ontario the present MEAP programme on specific properties could be expanded to cover more or all of the province and the budget increased from the present \$500,000 level. Some preference should be given to junior Canadian companies over the foreign multi-national companies."

That sounds a little bit like E. P. Taylor and his horse-breeding investments here in Ontario where he gets all of the funds that are available for that particular purpose.

"The MEAP programme might also be expanded to cover straight prospecting ventures.

"(d) The Ontario government should consider carrying out airborne geophysical (EM, magnetometer and radiometric) surveys of geologically favourable areas similar to the programme done in Quebec.

"(e) To reduce non-productive exploration costs such as claim staking, less expensive

methods such as perimeter staking or map staking should be considered

"(g) In conjunction with the federal government, some tax break should be given to people living in remote and unpopular areas where expenses are considerably higher than in southern Canada.

"(h) Again in conjunction with the federal government, consideration should be given to reimbursing junior companies, who have no taxable income, the difference between the full dollar they are spending on exploration versus the after-tax dollar the major companies are spending. The proposed 100 per cent write-off of exploration expenses for individuals could stimulate some exploration work, if and when it is enacted.

"This is a preliminary draft of a study by our association and has not been reviewed by the directors of our Association." It is signed E. G. Thompson, Vice-President.

I think we in this party could accept some of those recommendations and I think the minister perhaps could accept some of them.

One of the important things I learned in meeting this group from the Prospectors and Developers Association and people in the mining industry was that they were concerned about the Ontario Securities Commission in the sense that they feel they are in a strait-jacket because they can't raise the capital necessary to bring in a new mine or even to help meet the cost of exploration to find a new mine. They also mention how the Ontario Securities Commission regulations have hampered their operations. It has also been mentioned, of course, that in any mining operation there is a risk in terms of capital, because either the ore body is there or it is not. As I recall, Texasgulf in the Timmins area—and I think you mentioned Umex, the one in Jack Stokes' riding—

Mr. Bain: Lake Nipigon.

Mr. Haggerty: In the Lake Nipigon area.

Hon. Mr. Bernier: Right next to Kenora.

Mr. Haggerty: That had been prospected perhaps a dozen times, tests were run and they said apparently there was no ore body there. They said the same thing at Texasgulf, and yet it was one of the richest finds in Ontario. There is good possibility that other areas in Ontario also have rich ore prospects. By assisting the small operators in Ontario, the Prospectors and Developers Association, we might be able to bring additional mining industries into production in Ontario.

I don't know what the minister's views are on the matter of the Ontario Securities Com-

mission possibly easing up on some of their regulations. They were not too happy about the Ontario Securities Commission having a consulting engineer who almost told them what they had to do with the property before they even brought it into production. He almost set down all the rules before they could bring a site into production. They felt he kind of overstepped his boundaries in this matter of bringing in a new mine, because there are capable engineers in the industry who are knowledgeable in this particular field and they thought that should be sufficient.

I don't know whether I should continue reading things into the record. Perhaps I should do as the member for Lake Nipigon did, I guess, and read everything. We could spend an hour and a half—

Interjection.

Mr. Haggerty: A question was asked of the minister the other day in the House, and while I believe he has mentioned the matter here, I will read the question to him again:

"Can the minister report to the House the findings of the industry provincial advisory board to judge over the effectiveness of the new regulations for junior mines financing of the Ontario Security Commission policy 3-02, since the Premier himself, on March 9, 1976, indicated the group's initial findings were to be ready not later than June 1?"

I think you mentioned the new tax formula you were working on. Will this be in January of this year?

Hon. Mr. Bernier: I think we are talking about two different things.

Mr. Haggerty: Two different things, eh?

Hon. Mr. Bernier: I could comment on both of them if you wish.

Mr. Haggerty: That's the question I would like to have an answer to.

[3:00]

The other matter I would like to discuss, dealing with the Ontario Mineral Review, relates to natural gas exploration in the Lake Erie basin. My concern is about the involvement of a number of companies exploring for gas in the Lake Erie basin and in particular as it relates to some of the smaller producers in the area and the rates at which they have to sell their gas to Consumers' Gas, say, or perhaps one of the other gas companies in Ontario. What is the rate, Gord? Is it 44 cents?

Mr. G. I. Miller: I believe it was 40 cents a thousand one year ago.

Mr. Haggerty: The price the consumer has to pay now is about \$1.45 a thousand—

Mr. G. I. Miller: It's more than that; it's \$1.80.

Mr. Haggerty: It's \$1.80? It's gone up. I am just wondering about the cost spread in this particular area. When you look at that, you sit back and you wonder where the Anti-Inflation Board is as it relates to this particular field. Maybe there is an enormous amount of profit made there. If there is, perhaps the royalties on the gas well in Lake Erie should be increased.

As I understand it now, a number of these wells that are brought into production are capped off; they are not all being used at the present time. I don't know whether this is true or not but if it is the case, I would like to know why they are capping off potentially good gas-producing wells. What's the idea of not letting it come on the market, when we are paying quite a price for western Canada gas? This could offset some of the cost here in the province of Ontario.

I am also concerned about something that could happen later on. The Americans now are looking at the possibility of drilling gas on the American side of Lake Erie and, with that pipeline out there, connections could be made very easily and all of this could be exported to the States. And I suggest to the minister that he keep his eyes open on this particular thing to see it doesn't happen. That gas out there should be used strictly for the province of Ontario and our residents. I think we do have an interest in it.

The other matter I thought I would like to ask the minister about relates to pits and quarries and particularly the value of structural materials in Ontario, which perhaps brings in more revenue than some of the mines in northern Ontario. Since these kinds of operations are causing some problems with local municipal councils, I was wondering whether the ministry has given any consideration to including a provision in The Mining Act that a municipality must be consulted before a new pit operation is opened? At the present time there is no provision for the objection from a municipality when a permit is issued for the operation of either a way-side pit or a quarry.

I think the municipalities should have some input in this matter. The stroke of the minister's pen should not be so big a stick

as to say that this is what is going to happen. I raise this matter because different members do receive a number of complaints from all over the province of Ontario, and particularly about wayside sites, that there is no dialogue whatsoever with the local municipalities. And sometimes I would have to question whether your stroke of the pen has the authority over local planning in a municipality that has a planning bylaw—or even over a regional plan.

Hon. Mr. Bernier: We can't go against that particular plan.

Mr. Haggerty: A regional plan?

Hon. Mr. Bernier: If there is no official plan there, then we have the authority. If there is an official plan in place, then that takes precedence.

Mr. Haggerty: I suppose if I wanted to single out one particular area, I could mention the township of Wainfleet. I think there is an application before you now from Canada Cement Lafarge to reopen a quarry there that they had abandoned for the last 10 years. They used to use it for cement lime —

Hon. Mr. Bernier: That would be an existing operation.

Mr. Haggerty: How can it be an existing operation when they took down all their buildings, their smoke-stack, all their plant facilities—everything?

Hon. Mr. Bernier: It's a question of the definition, the way we define an existing operation. If it was a commercial operation at that time that would not comply —

Mr. Haggerty: But you see, under the local municipal bylaw the zoning has been restricted now that no pit or quarry operation can be —

Hon. Mr. Bernier: I'll put that in my reply.

Mr. Haggerty: All right, then.

Another concern is that I think it's time the province of Ontario should have some employment strategy programme for Ontario, particularly as it relates to the mining industry, and that we do look ahead. When I say "we" I'm talking about the government of Ontario look ahead to see that we do have a continuing programme, in northern Ontario in particular. When you see mines that are phasing out you should have a projection that there will be a new mine coming in say within five or six years of that.

Often the ore body is going to be depleted and when you have a complete phase-out of a mine people have to suffer by that decision. Where do they relocate? I think I mentioned it someplace in one of the briefs that consideration should be given to this particular area of relocating people, that they should be subsidized, perhaps, to some extent to relocate in other areas of Ontario. I know Canada Manpower has such a programme.

Another matter I'd like to discuss, Mr. Chairman, is the matter of occupational safety as it relates to The Mining Act. I suppose we can all be critical of the minister for perhaps not implementing the Ham commission study two years previous to this. I do have to give the minister credit anyway. We've had previous ministers who have done little in this particular field. I know we were perhaps tough on him a few years ago, but I think he got the message and I would have to compliment him for finally bringing in that report. There are 117 recommendations in that report and I hope that the government will move in that direction. I know the Minister of Labour (B. Stephenson) has taken steps now to bring in some of those 117 recommendations. I sat as a member of the committee along with Mr. Reid, the member for Rainy River, dealing with the last revisions of The Mining Act. I understand that you're having some further revisions in The Mining Act?

Hon. Mr. Bernier: I indicated about April, 1977, in the spring session.

Mr. Yakabuski: It is moving right along.

Mr. Haggerty: Moving right along, thank you.

There are two key recommendations in this report that I'm interested in. Recommendation 66 is: "That there be statutory provision for the establishment of a joint labour-management health and safety committee at each mine and plant." And No. 67 is: "That the membership of the committee consist of equal numbers of persons appointed by management and appointed by members of the collective bargaining unit(s) where such exist, and otherwise elected by the workers collectively, subject to the constraint that at least two of the persons selected be worker-auditors."

These two recommendations are perhaps the key issues in the report. The recommendations allow the employee to have an input in health and safety that he alone is associated with.

How well I can recall the debates involving Bill 2, An Act to amend The Mining Act, in-

troduced in April 1970, and referred to the standing committee of the Legislature. I think we sat from early spring, April and May, through the summer months and up until November of that year. I think the opposition parties accepted the bill in principle, with certain reservations, and agreed that reasonable amendments would be an improvement over the existing Act. Perhaps I was critical in one area, where The Mining Act was not clear in safety matters and I stated then that this should be defined. I think at that time, under The Mining Act, there were about 416 sections that were permissible, in the sense that if you had a mining inspector there and he said, "Well, we don't need a handrail on this particular stairway," by an order he could have that not implemented; that there was no need for such a safety device.

I can recall the member for Sudbury, Elmer Sopha, relating to this particular issue too. We heard from the United Steel Workers of America who submitted an exceptionally good brief at that time. Some of the recommendations were accepted from that group and there were some heated debates and arguments during that sitting of the committee. I can recall during the second reading debate on The Mining Act on November 12, 1970, that I moved two amendments incorporating safety committees of management and labour at every site, as a fundamental addition to provisions designed to give teeth to the safety of servants. I stated at that time, in regard to the first amendment that it was a vital one, indeed, a key amendment.

As members of the official opposition we said we'd take it to a division. At that particular time, I moved that section 161 of the Act as set out in section 2 of this bill be amended by adding thereto the following subsection 4: "A safety committee shall be established for every mine, comprising equal representation from management and labour, and the committee is responsible for ensuring that safety provisions of this Act are complied with and shall forthwith notify the minister and district mining engineer of any accident or injury to any worker occurring in or about the mine."

Surprisingly, the Liberal amendment was defeated on a combined effort by both the New Democratic Party and the Conservatives. It was 72 opposed and 18 in favour. I would consider that both the NDP and Conservatives acted irresponsibly in their decision to oppose the amendment, further deteriorating the miners' fight for improving hygienic working conditions and denied them the right to participate in health and safety matters.

Mr. Laughren: You're a year behind the member for Sudbury East (Mr. Martel).

Mr. Reid: Why didn't you oppose it?

Mr. Haggerty: No, I'm not a year behind the member for Sudbury East. In fact, I think to this day there is a private member's bill on the order paper identical to—

Mr. Laughren: You shouldn't respond to interjections.

Mr. Haggerty: —what the Ham commission recommended in its report on the health and safety of workers in mines. It will be interesting to see how the NDP vote in this particular instance.

I want to say that I'm pleased about this particular report. I can see there are going to be changes brought in now that provide additional safety to miners in Ontario, and I think this is a step in the right direction by the minister. I am pleased also to see that the mining safety inspections will be under one particular department now, and one ministry will be responsible for them.

I also have deep concerns about the matter of occupational health, regardless of whether it's in this ministry or in the Ministry of Labour. I can recall that the Ministry of Health and the environmental section there that relates to safety for employees in industry, lost Dr. Mastromatteo, who is now employed by International Nickel Company. He is an expert in the field in the province of Ontario, and for some unknown reason the government let his talent slip by.

Hopefully, I don't have to appear before the Workmen's Compensation Board with Dr. Mastromatteo sitting on the other side, because I'll tell you this much, we'll be lost with the vast knowledge that he has there. Hopefully, his venture into the field of mining, particularly with International Nickel Company, will see major improvements in the operations of the International Nickel Company in Ontario. I think it's a great loss to the province of Ontario that we've lost this man. I had good results with Dr. Mastromatteo, meeting on different occasions with Local 6200 of the United Steelworkers at the International Nickel Company in Port Colborne. Our meetings were most fruitful.

I can recall, I think through the efforts of Dr. Mastromatteo and I guess you'd call him the director of Local 6200, the compensation person appointed by the union, Mr. Peter Kovasich; that we were perhaps one of the first to be successful in winning a Workmen's Compensation case relating to sinus cancer.

I can tell you it's been mentioned in this report about sinus, larynx and so forth. I have a list of persons employed in the particular refinery, part of the International Company in Port Colborne, who had succumbed to cancer, respiratory diseases and perhaps I'll get into that in more detail in the Minister of Labour's estimates where I can get the number of persons that have been affected by cancer in the nickel industry in the refinery in the city of Port Colborne.

[3:15]

But I think the government is going to have to move in some direction to provide assistance to the small mining companies here in Ontario so that we can continue with further job opportunities in the province of Ontario. I think you should have an employment programme for people, particularly in northwestern Ontario.

Hon. Mr. Bernier: We have one for northwestern Ontario but some parties are opposed to it.

Mr. Laughren: Opposed to what?

Mr. Haggerty: I don't think they're opposed to that operation at the Reed Paper industries. They may have some reservations about it but I don't think they're opposed to it. I think they, like many of us, have some reservations about it.

Mr. Reid: No pun intended.

Mr. Haggerty: I don't think I've heard anybody objecting to it, even from the NDP.

Mr. Reid: Mr. Lewis said it should be stopped.

Hon. Mr. Bernier: That's right. He has said it should be stopped.

Mr. Haggerty: Did he say that? Well, their leader—

Mr. Yakubuski: You're misinformed.

Mr. Haggerty: I was going perhaps by their critic of natural resources the hon. member for Lake Nipigon (Mr. Stokes), who has stated—

Mr. Chairman: Order, please.

Mr. Haggerty: He said we'll watch this very closely but he didn't object to it.

Hon. Mr. Bernier: Yes, sir. You'll be sweating, you'll be sweating.

Mr. Laughren: The minister is being provocative.

Mr. Chairman: Order, please. Mr. Haggerty has the floor.

Mr. Haggerty: I'll yield the floor now to some other members and we can get into some of these things perhaps in more detail. I'm sure the member for Haldimand-Norfolk (Mr. G. I. Miller) has quite a bit to discuss on gas wells in his particular riding..

Hon. Mr. Bernier: Mr. Chairman, I'd just like to express my appreciation to the member from Welland—

Mr. Haggerty: Erie.

Hon. Mr. Bernier: Erie?

Mr. Haggerty: Yes. Not the great county of Welland but it's Erie.

Hon. Mr. Bernier: —reassuring us that his particular party is a true free-enterprise party. It's reassuring to me to know that we have that kind of thinking going on in the Liberal Party today. I'm glad it's still there. I would hope it would flourish and blossom and move ahead.

Mr. Sargent: Don't put this in Hansard please.

Mr. Haggerty: But like Trudeau says, industry has a responsibility, you know.

Hon. Mr. Bernier: No argument about that.

Mr. Laughren: Keep it up.

Hon. Mr. Bernier: You questioned—and I appreciate your concern—the decline in exploration activity in the province of Ontario. It's something that both the Treasurer (Mr. McKeough) and I have taken notice of, we've made public statements and public comments, much the same as those to which you have referred. I am personally concerned about the regulations of the Ontario Securities Commission that were brought in last April. Regulation 3-02—

Mr. Haggerty: 302.

Hon. Mr. Bernier: —is the one that's causing our concern. I think it's fair to say that that particular regulation allows the Securities Commission to judge the merits of an application before a registration is given, and that's the crux of it. You'll recall when the Premier spoke to the prospectors and developers last spring, he indicated that a committee would be established—

Mr. Reid: And a report by June.

Hon. Mr. Bernier: —headed by someone in my ministry, someone of a senior level and that person is Dr. Reynolds, sitting on my left. He has been grappling with the problem, and I tell you after the month that he's been doing it, he's an expert in that particular field.

Mr. Reid: He is now.

Hon. Mr. Bernier: As the Premier (Mr. Davis) indicated to the Legislature—

Mr. Haggerty: You know what an expert is, don't you? A person who knows more and more about less and less all the time.

Mr. Chairman: Order, please.

Hon. Mr. Bernier: I wouldn't say that for Dr. Reynolds. But the problem with the initial stages of the review was there were no applications. I think the member for Rainy River made a point that the junior mining companies were frightful to come forward with any applications, so we couldn't look at any specific applications. But now there are three. They are being carefully examined and the deputy has indicated to me that, hopefully, by the end of this year we will have his report. We're all anxiously waiting his recommendations because it could be a signal of a turnaround. While I'm not going to put words in his mouth or write his report, I think he knows the feelings of many of us, just like yourself, in regard to exploration and risk capital, particularly with the junior mining companies.

You hear criticisms that the province has embarked on Wintario and the Provincial lottery, but is denying the right of the individual to gamble in junior mining stocks.

Mr. Sargent: We are putting \$100 million in Syncrude and things like that.

Hon. Mr. Bernier: That's to guarantee that we will have an energy supply for years to come. Also, of course, the Treasurer did make some indication and signal that some thought would be given to incentives toward exploration. His ministry along with mine has been grappling with this particular problem since that comment was made. We still have not resolved it in detail but I can assure you that we're still working on it.

Before I call some senior members of my staff I'll just notify them and put them on notice. I'd like Dr. Pye to think about some of the geological work that we're doing in the province. He can give us a little run-down on that. Then I'll ask Mr. Hurd to talk about the gas situation in Lake Erie as it

relates to royalties and why we're capping some of those wells.

I just want to go back one moment if I could. I indicated to the hon. member with respect to that particular application for a gravel pit by the Canada Cement—

Mr. Haggerty: Canada Cement Lafarge Limited.

Hon. Mr. Bernier: —and I wasn't aware of this; for a moment it slipped my mind—that we could not accept their application as an existing operation. They would have to go through the OMB process, which would be a formal one where public participation will be invited, before we could deal with their application. I just thought I'd put that on the record for your information as I know you are interested in it.

On the question of pits and quarries, as you well know, I have had a committee under the chairmanship of Mr. Jewett, who is the executive director of the mining division in the province, to which has been added a very broad group of people interested in the pits and quarries of this province, be they from the private sector or the public sector, from industry or from municipal governments. They've been looking at the effectiveness of the Pits and Quarries Control Act and how it has been operating in the last couple of years.

Mr. Sargent: Monopoly control.

Hon. Mr. Bernier: I indicated when I introduced that particular piece of legislation that I would be back with amendments. This committee, headed by Mr. Jewett, has gone in to all aspects of the problem, many to which you have referred, Mr. Haggerty. These include assistance to municipalities in which the quarry or the gravel pit is located and a number of aspects. When will they be coming forward with a report, Mr. Jewett?

Mr. Jewett: By the end of the year.

Hon. Mr. Bernier: Then we will give it broad distribution and hopefully will bring in amendments to The Pits and Quarries Control Act.

Mr. Haggerty: But you do have the powers to veto any local government decision on that, don't you?

Hon. Mr. Bernier: No, the municipality has the veto power, I don't.

Mr. Haggerty: I thought it was the other way around.

Hon. Mr. Bernier: They have a stronger arm than I do under The Pits and Quarries Control Act today.

Mr. Haggerty: If there's a plan there—that's what you said—then you have to go through the process with the Ontario Municipal Board. What if there is no plan?

Hon. Mr. Bernier: Even if there isn't a plan, the municipality has the veto power.

Mr. Haggerty: I didn't know that.

Mr. G. I. Miller: What about the one at the Townsend townsite where the municipality wasn't really in favour of it being there but was overruled?

Hon. Mr. Bernier: By whom? Was it an official plan?

Mr. G. I. Miller: No, it had been in existence.

Hon. Mr. Bernier: That's the problem. If it is an existing operation, then there is nothing we can do about it under the Act as it's structured today.

Mr. G. I. Miller: It was in operation and was running for a year.

Hon. Mr. Bernier: That's right. If it is classed as an existing operation, then under the Act we have to give them a quarry licence. That will be coming forward along with the revisions to The Mining Act. We are going to have a very busy spring as it relates to The Mining Act and The Pits and Quarries Control Act.

I appreciated your comments on the Ham report and your acceptance of the report. As I indicated when the report was tabled, I was enthusiastic about it and said it was one report that would not gather dust at Queen's Park. I think you've seen indications—

Mr. Haggerty: You're liable to come down with emphysema or lung cancer if you're going to allow dust to get involved in it.

Hon. Mr. Bernier: —that the Minister of Labour (B. Stephenson), the Minister of Health (Mr. F. S. Miller), the Minister of the Environment (Mr. Kerr) and I have been meeting on a regular basis dealing with the 117 recommendations. I can tell you that every one of those recommendations is being carefully reviewed and studied, and that when the Minister of Labour brings in legislation I think you will be pleased, as you are with the report, with the legislation that she brings forward. It will answer and cer-

tainly correct many of the deficiencies that we have in the operation itself.

I want to say one word about employment in the mining industry, just to give you some idea and also to put it on the record. In 1950 we had 28,478 people working in our mines. They were averaging about \$10,900 a year.

Mr. Haggerty: That's with overtime, eh?

Hon. Mr. Bernier: Could be, yes.

Mr. Laughren: A bonus.

Hon. Mr. Bernier: In 1974 we had 27,899 people working in the mining industry directly, and their average salary was \$17,249. It's been a pretty stable industry with relation to northern Ontario.

Mr. Sargent: What is the average wage now?

Hon. Mr. Bernier: It's \$17,000.

Mr. Haggerty: That's with bonuses and overtime, Ed.

Hon. Mr. Bernier: I just wanted to relate to the members the significance of the mining industry in the province of Ontario.

I'd just like to make some reference to the problems we're having with the decline and the closing of the non-renewable resource industries. I refer specifically to the little community of Madsen, where Madsen Red Lake Gold Mines closed just last year. The member made reference to single-industry communities. Madsen is about six miles from Red Lake. There are roughly 80 homes there—123, I think, in total—

Mr. Haggerty: Is Dickenson still—

Hon. Mr. Bernier: Dickenson is still operating. Only Dickenson and Campbell Red Lake are operating today. At one time, you will recall, there were 11 gold mines operating in the Red Lake area, so there is some concern about their economic base and their future in that particular area. But I just wanted to relate to the members the attitudes and the operations and the enthusiasm of the people of Madsen. They have formed their own citizens' committee and taken on the responsibility from the mine to look after the sewer and water facilities and street lights. In essence, they have formed within their own group a municipal organization without municipal structure.

Mr. Haggerty: Who paid for the utilities—the sewers and water?

Hon. Mr. Bernier: The mine has turned it over to the community.

Mr. Haggerty: Oh, they built it, did they?

Hon. Mr. Bernier: Yes, they built it. They turned over the recreational centre and all the facilities that make a community tick to the incorporated citizens' committee.

I just want to lay your fears to rest that we have a problem at Madsen, because we don't at the present time. The citizens have accepted their responsibility. They admitted to me they weren't really paying their fair share with regard to facilities, with regard to taxes, because they were on mining property. That has been all sorted out with the Minister of Housing (Mr. Rhodes). The surface rights will be turned over to the individuals who own the homes, so in essence they have a dormitory community. It'll be a viable community in which they will contribute and which they will control and operate.

That is, I think, a real example of how citizens can pull together and do a job for themselves. I just have to put on the record that they deserve all the compliments I can muster for the attitude they have taken.

I realize this doesn't always answer the questions. I think we've had some concern, which I think Mr. Reid will share with me, about the future of Atikokan. We know that that will come to an end sooner or later, hopefully with Canadian Pacific Investments now back of Steep Rock Iron Mines, with the new thrust of the government in promoting new secondary manufacturing and forest-resource-based industry, such as the utilization of poplar and a plant for manufacturing waferboard. My ministry has established a district office there. We have built a new district hospital. Our emphasis in the acceptance of the recommendations of the Quetico Park master plan will make sure that Atikokan does have a future, and if Ontario Hydro goes ahead with its plant in that particular area, then the future of Atikokan is assured.

[3:30]

With those brief remarks, I would like to call on Dr. Ed. Pye to give us a brief rundown on the geological and geophysical programme that we had last summer.

Mr. Laughren: We're one party that never thought of you.

Hon. Mr. Bernier: That's right. We are in full flight.

Mr. Sargent: One question: You have an amount of \$200,000 for mine rescue stations. How much do you spend on training?

Hon. Mr. Bernier: That is a transfer fund from the Workmen's Compensation Board that the board assesses the industry and it's funnelled through them, like the Loggers' Safety Committee. There's something like nine separate safety committees that the Workmen's Compensation Board funds and it's under our ministry. They, in turn, pass it over to us. These are highly trained and skilled people and our efforts with regard to—

Mr. Sargent: The mine rescue stations we're spending \$180,000 on; where are they?

Hon. Mr. Bernier: They're stationed in various mining communities in the province of Ontario, Sudbury, North Bay, etc.

Mr. Sargent: You're spending \$180,000 to rescue people but what are you spending to train them before they go into the mine? That's what I want to get at.

Hon. Mr. Bernier: The specific people in charge of the mine rescue stations are there on a 24-hour basis. They, in turn, train groups within each separate mine. Each mine has its own rescue team. I think the significance of this programme was the acceptance and the request by the United States government that our individual, George McPhail, was called down to Kentucky to be one of the individuals on the investigative team to look into that disastrous coal mine accident that occurred some time ago.

Mr. Sargent: I won't prolong this, but you missed my point. We spend that kind of money on rescue but why don't you spend \$1 million on training instead?

Mr. Bain: The miners themselves do it.

Hon. Mr. Bernier: They do it themselves.

Mr. Sargent: I'm talking about before they go into the mine. That's the point I'm trying to make.

Hon. Mr. Bernier: This is what we're doing, this is creditation, certification. It's a different thing altogether.

Mr. Sargent: Also, why do you give all your gasoline business in your whole department to one firm, Gulf? Why do they get all the business?

Hon. Mr. Bernier: I didn't know they did.

Mr. Sargent: I was checking your public accounts and they get \$1.3 million a year and everybody else gets less than \$100,000.

Hon. Mr. Bernier: I'll have to find that out.

Dr. Reynolds: Would that be the total that's going to that company, Mr. Sargent?

Mr. Sargent: It says Gulf Oil of Canada, \$1.3 million.

Dr. Reynolds: That would be a variety of things. That probably would be individual purchases by conservation officers for their vehicles wherever they happen to be. It might very well be, and I could get the details. For example, they might well have been the successful tender for our major field requirements for the airport aircraft, which is a very large purchase.

Mr. Reid: Do we get a discount?

Dr. Reynolds: It's put up on a tender basis, but if you'd like a breakdown, that won't be hard to get.

Mr. Sargent: But you do tender for it?

Dr. Reynolds: Oh, yes.

Dr. Pye: Mr. Chairman, Mr. Minister, as Mr. Bernier pointed out, we should perhaps emphasize that the difficulty in finding mines in Ontario is increasing and we've reached the stage of maturity in exploration whereby most of the mineral deposits that have been found at the surface have been tested. We now have reached the stage where new discoveries depend upon our ability to detect ore deposits concealed beneath the bedrock surface or concealed beneath a thick cover of glacier overburden. So we've gone from a stage of simple prospecting—now prospecting is still required and there is still room for the prospector in finding certain types of mineral deposits—but we have reached a stage now of a need for a very sophisticated approach to mineral exploration.

Basically, the process as I see it at the moment, is a fourfold one. Our first job is to do studies of mineral deposits in the field to determine the parameters or the characteristics of a favourable geological environment, that is, the geological environment in which they occur.

The second process is that once we have determined these physical characteristics or parameters, our problem is to go out and find the favourable environments. Again, I'm talking about environments and not targets.

The third thing we need to do is develop technology to investigate those favourable

environments to find targets which we can drill, and hopefully the targets we drill will end up being ore bodies.

Of course, the fourth part of the process is to use that technology.

Where do we fit into this? The first part—the identification of the characteristics of favourable environments—has been a responsibility of the government survey and it has been partly done by industry with support from universities.

The second part, the location of favourable environments, is essentially the role of the government geological survey. The companies have not done much of this, and for various reasons. One is that the company cannot go on to someone else's private property, so in fact you need a government institution to look at it in a regional context. It is also desirable, too, from the point of view of cost. If every company, for instance, had to duplicate what the geological survey has done the cost would be simply astronomical and a lot of companies in fact wouldn't be in business.

The third thing is development of technology. That has been largely the role of the service industries, with concept development from universities, but with the development of instrumentation and methodologies within the service industries that support the mining companies.

The fourth thing, of course, is the matter of money which we have discussed before.

Mr. Laughren: Is the technology available that can detect a very deep ore body if there is a socialist standing on the surface?

Hon. Mr. Bernier: No.

Dr. Pye: No. It doesn't matter who is standing on the surface. I don't know just what the depth limitation of the modern methods would be, but it is generally conceded that something below 200 to 300 feet is exceedingly difficult to find.

Mr. Sargent: Is that an aerial survey?

Dr. Pye: That will be an aerial survey, yes.

I could go on from there and explain our programme.

Mr. Wildman: Is the thrust of your whole programme technology for exploration, or are you also involved in the development and research into technology for the rehabilitation of sites after they are mined out?

Dr. Pye: Not in the geological programme, no.

Mr. Wildman: Not at all?

Dr. Pye: No.

Mr. Wildman: It would be related though, wouldn't it? You are dealing with geological—

Dr. Pye: I would suggest that the rehabilitation or the bringing of something back into production—

Mr. Wildman: No, I didn't mean bringing it back into production. I meant, for instance, the backfilling of mines that are draining into the watersheds.

Dr. Pye: This would be a mining engineering function. It would not be a geological survey function. The geological survey function basically is identifying these parameters of favourable environments, and then going out and locating the environments so that third parties can investigate the environments with the idea of finding ore.

Mr. Laughren: Today, if you are locating a townsite—I am thinking of Elliot Lake now—is the technology available that would prevent the same thing as happened at Elliot Lake where the townsite ended up sitting on an ore body and had radon gas coming through the rock into the home. That is still happening, isn't it?

Dr. Pye: Yes, I guess the problem there is—one of the things I've read in the press about leakage of ore bodies from 3,000 feet below I don't really believe myself—I think the radioactivity is coming from the Matinenda formation exposed at the surface.

Mr. Laughren: Oh, I see.

Dr. Pye: This could be detected by modern radiometric methods.

Mr. Wildman: If they complete the highway from Blind River to Elliot Lake then they could build some houses at Blind River and people could commute.

Mr. Laughren: Could I ask the minister whether or not he is aware of the problem and to what extent that is being looked at by the ministry?

Hon. Mr. Bernier: The Atomic Energy Control Board, of course, does have control and it is right on top of the issue. I went to Elliot Lake and met with Mayor Taylor along with my senior staff, and we have appointed a gentleman by the name Don Vance

to be our ministry contact in the Elliot Lake situation to assist the federal authorities in any way we can should they require some provincial assistance. But they are doing it mainly on their own. It is their responsibility.

Mr. Laughren: Would you know what they are doing?

Hon. Mr. Bernier: When I was there a doctor—I forget his name—was coming in from Uranium City to do some very extensive exhaustive examinations of the homes in question. I think that has been done.

Mr. Laughren: But you haven't had a report on that?

Hon. Mr. Bernier: I haven't had a report. I haven't seen anything.

Mr. Bain: I just wanted to pursue a matter with the minister on another subject area, dealing with one I raised in the House.

Mr. Chairman: Is this a question?

Mr. Bain: No, it is not a question.

Mr. Chairman: Did you have a question for this gentleman, Mr. Sargent?

Mr. Sargent: May I please? I am not knowledgeable about this, but it is interesting to me over the years as I have always thought that the small independent prospector was being underfinanced. Do you grubstake them now?

Dr. Pye: No, we do not.

Mr. Sargent: Is it an exercise in futility to send an independent prospector into the north?

Dr. Pye: Different views have been expressed on this. My personal view is that there still is room for surface prospecting. What is happening is that we have run through a period in which the industry has been looking very largely for high-grade deposits, massive sulphide deposits which are detectable by electro-magnetic geophysical methods. But they have not, in Ontario, to any great extent looked for large tonnage, but very low-grade deposits. Some of these low-grade deposits would be just about impossible to pick up by modern geophysical techniques, airborne or even ground. A good example of that is Great Lakes nickel, which could not be found by geophysical methods; it has to be found by ground prospecting.

Mr. Sargent: Why don't you have a programme for grubstaking?

Dr. Pye: We have suggested it.

Hon. Mr. Bernier: Leave it to fellows like you.

Mr. Sargent: But there must be an area. Everything you are talking about now is all big money. You are rubbing shoulders with the financial community. That must be nice for you, but what about the little guy? How do we get these guys on track that want to be prospectors but can't finance themselves?

Mr. Yakabuski: Take your packsack with your white Lincoln and a prospector's pick, Eddie.

Hon. Mr. Bernier: The ones that I know are real entrepreneurs. They have never asked us for a grubstake per se. We have the mineral explorations assistance programme where, once they get an ore body, if they want to submit to us a plan of surface exploration we will assist them up to one-third of the cost. The total programme is \$100,000. So they could get direct assistance from the government for \$33,000 under the mineral exploration assistance programme in designated areas of northern Ontario.

Mr. Reid: And there is only \$500,000 in the programme.

Hon. Mr. Bernier: Right.

Mr. Reid: So it doesn't go very far. Following up Mr. Sargent's question, I wonder if I could ask Dr. Pye if he wouldn't agree that, because of the policy of the Ontario Securities Commission and the other policies of the government over the past few years, the individual prospector who was responsible for finding between 66 per cent and 75 per cent of the mines in the province of Ontario has almost passed away, because there is no incentive any more for him to go out prospecting because amongst other things he can't raise the necessary capital for the drilling and development of the mine. In fact, what the government's policies have done is to force those small prospectors, who might find something but don't have the money to develop it to a position where they know exactly what they have got, to sell their claims to the big mining companies because they can neither afford to hold on to them or to do the exploration because of government policies.

Hon. Mr. Bernier: While Dr. Pye is thinking, I just want to make a point. It is the federal government's taxation policies as they relate to the prospector that really put the

dampener on the individual going out. They have killed the incentive.

Mr. Sargent: At the pit head.

Hon. Mr. Bernier: Yes, at the pit head. The pot of gold they hope to find at the end of the rainbow will be taxed to death.

Mr. Reid: Wait a minute now, those people are still—

Mr. Bain: On a point of order, Mr. Chairman, I believe we had a speakers list.

Mr. Chairman: That is right.

Mr. Bain: We can be indulgent when somebody who is an expert in geology is being asked geological questions as we don't want to have to keep calling him back. But I do believe that we strayed beyond the point of geology.

Mr. Sargent: I'll finalize mine.

Mr. Bain: We are now into policies of the government. I think that question should be better directed to the minister, and I am sure Mr. Reid is on the speaker's list.

Mr. Reid: They only want to follow the rules when it is to their advantage.

[3:45]

Mr. Sargent: One more thing. We have had no development in mining for quite some time now, and things have gone along like gangbusters, and all of a sudden no new development at all. What happens to the people who are busy all the time? What are they doing? Did you fire them, or are they still employed, or what?

Dr. Pye: A lot of people who have formerly worked for these smaller companies in Ontario, and to some extent people are still working for the larger companies, are working elsewhere.

Mr. Laughren: You mean government employees.

Mr. Sargent: I mean your employees.

Dr. Pye: Oh, the government employees. I think our programme basically is running fairly constant in the last five years.

Dr. Reynolds: Mr. Sargent: could I just say that perhaps there is a little misconception of the sorts of things that Dr. Pye's people do. Just because there is not exploration going on doesn't mean that the geological—

Mr. Sargent: I am sorry. I didn't mean you, I am after the minister, not your department. You are a stem-winder, you are.

Dr. Reynolds: The geological examination, the geochemical and the new technologies that are related to geochronology are all going on apace. We are still doing the basic material, improving maps and extending and that sort of thing so if there is some interest, the basic data is there for people to use.

Mr. Chairman: Mr. Haggerty asked some questions about the Lake Erie gas—

Hon. Mr. Bernier: Yes, I would like to call on Don Hurd, who is the acting head of the petroleum resources section, to answer Mr. Haggerty's question concerning royalties and why capping.

Mr. Hurd: Mr. Chairman, Mr. Minister, it has not been our policy to plug commercially-productive wells in Lake Erie. After the well has been producing for about 15 or 20 years we ask for an additional security to guard against the possibility that we might have to plug it.

Mr. Haggerty: We are talking about the drilling in Lake Erie itself?

Mr. Hurd: Yes.

Mr. Haggerty: As I understand it, the wells have come into production, and they have capped them off. Now they haven't brought them on stream. Is there any truth to that or not? These are the rumours that I get.

Mr. Hurd: If by capping you mean plugging, and permanently sitting on it—

Mr. Haggerty: No, not plugging, capping. I mean they are just sitting on them, either waiting for the price to go up higher, or I don't know.

Mr. Hurd: Usually the situation is that it costs quite a bit of money to tie in all of these wells and they will let them sit for about two years until they have developed the field.

Mr. Haggerty: How many wells would there be sitting like that, roughly? Say the whole lake basin; there are four or five different leases out there, aren't there?

Mr. Hurd: There are seven operators and the whole lake is leased out to them.

Mr. G. I. Miller: Seven operators?

Mr. Hurd: Yes. There are probably about 50 wells waiting to be tied in, probably 50 per cent owned by Anschutz Corporation.

Mr. Haggerty: What?

Mr. Hurd: Fifty per cent of the wells suspended and awaiting tie-in are owned by Anschutz Corporation.

Mr. Haggerty: Where are they from?

Mr. Hurd: Calgary. Actually they work out of Calgary. They are from the States, too. The other half of the wells are probably sitting waiting tie-in from Consumers' Gas Company.

Mr. Haggerty: You keep a constant check on them and when these wells do finally come into production and are sold for retail—

Mr. Hurd: Yes, we keep a very close eye on all of the activity out in Lake Erie. We know which wells are not and are tied-in and which ones are plugged and we keep an accurate well history on each one.

Mr. Haggerty: In how many of those wells that have been drilled in the past ten years has oil been found?

Mr. Hurd: I know of about two, or three possibly, wells that are capable of commercial oil production. They have been plugged up.

Mr. Haggerty: Have there been any tests run on them? How large are they?

Mr. Hurd: No, there are no tests. I am guessing that it was commercially productive.

Mr. Haggerty: No tests?

Mr. Hurd: There was enough oil there that we said no, you plug them.

Mr. Haggerty: What level would they be at? What did they drill them at?

Mr. Hurd: How deep?

Mr. Haggerty: Yes, out there?

Mr. Hurd: It averages about 1,800 feet.

Mr. Haggerty: That is the depth?

Mr. Hurd: That is about the average depth. That is the Silurian depth.

Mr. Haggerty: Are any wells being drilled on shore now at any place along the Lake Erie shoreline within the gas area, say, in the Sherston area? Are any new gas wells being drilled in that area or up in the Haldimand-Norfolk area, that is, on land?

Mr. Hurd: On land there is development drilling in Haldimand and Norfolk counties, yes.

Mr. Haggerty: Is that for deep well?

Mr. Hurd: No, it is usually a Silurian test again, which is about the same depth.

Mr. Haggerty: Are there any other places in Ontario where we have had any gas exploration at all, for example, up around Huron county?

Mr. Sargent: In the Legislature.

Mr. Hurd: Yes, the whole of southwestern Ontario has potential for gas and oil exploration. Lambton county is particularly keen, as are Huron, Middlesex and Elgin counties.

Mr. Haggerty: Have there been any wells drilled in that area just recently?

Mr. Hurd: In Lambton county there is a very active exploration programme.

Mr. Haggerty: What about Huron, and up in that area? Is there anything up in that area at all?

Mr. Hurd: It is limited. There is some new revived interest I hear by the grapevine by one major company.

Mr. Haggerty: Have they hit a good supply in Lambton?

Mr. Hurd: In Lambton it is a pinnacle reef belt where the bulk of our storage pools are developed.

Mr. Haggerty: Your storage pools?

Mr. Hurd: Yes, the bulk of the natural gas storage capacity is in Lambton county.

Mr. Haggerty: What do they use for storing in it then?

Mr. Hurd: They buy natural gas from TCPL out west, from Alberta. They store it in storage reservoirs and use it in Ontario during the winter at peak periods.

Mr. Haggerty: Are they still doing that in the Sherston and Crowland area? I think Consumers' Gas were.

Mr. Hurd: Yes, the Crowland field is the only storage field that isn't in Lambton county.

Mr. Haggerty: Is that land being assessed then for operations or what? There is no assessment on that land whatsoever then?

Mr. Hurd: I am not sure.

Mr. Haggerty: Is it just like a huge storage tank where they can pump it down and when they need it take it back out again?

Mr. Hurd: Yes, essentially that is what they do. But I am not familiar with the municipal assessment situation on that.

Mr. Haggerty: Is there any assessed value put on that storage thing at all?

Dr. Reynolds: I just don't know, Mr. Haggerty.

Mr. Hurd: I believe there is. I couldn't tell you how much though. I believe also that the individual wells are assessed and that at one point the pipelines were assessed.

Mr. Haggerty: They are storing it in Lambton county then and it is still in along the shores of Lake Erie then. I am talking about the Sherston and Crowland area just around the town of Welland.

Mr. Hurd: There is one storage pool in Crowland and the balance of the storage fields is in Lambton county.

Mr. G. I. Miller: Mr. Chairman, could I ask a question in regard to gas wells?

Mr. Chairman: I think we will go on with Mr. Bain first.

Mr. Haggerty: I think there are some questions I wanted to ask.

Mr. Chairman: You could ask them later. We have cut in on Mr. Bain here for a considerable length of time. I think it is only fair he should get a chance.

Mr. Bain: Thank you. I will try to keep my remarks as succinct as possible considering that we have some limitations of time and we want to get through some other items.

I would like to discuss with the minister a problem that has been raised before—I raised it myself last week in the House—namely, the problem of gold. As to the price of gold, as my colleague from Nickel Belt mentioned, the situation in Timmins is critical. We have hundreds of employees there that have been laid off, with more to follow. Also the situation is reaching a critical stage in the Kirkland Lake area where we have three mines sustaining not just Kirkland Lake, but Kirkland Lake and all the other communities, Virginiatown, McGarry, Butter Lake, Dobie and so on. Two of those mines are gold mines and one is an iron ore mine, but they

are all equally important in terms of employment.

I am sure the minister appreciates that it does not do the gold mining communities any good whatsoever to say that this is a federal problem and then the federal government starts to get into a long harangue about the International Monetary Fund. This sort of buck-passing can go on forever and ever. What the people want to know is, if the federal government refuses to act—which I think would be a total shirking of its responsibility, but that's been known to happen before in the past with the federal government—what will the province do? Surely we can't sit back and, if the federal government does nothing, let those gold mining communities die? We just can't do that as a province. What will the provincial government do to secure those communities? I think we owe those people that much as a province.

If you can answer that I'd like to ask you a couple of other questions and I'd then like to go on and speak for a moment on United Asbestos, another one of your favourite topics.

Hon. Mr. Bernier: Right. Both of them are very close to me, Mr. Chairman. The gold mining situation is something we've been watching with a great deal of concern for some period now. We had indications a year or so ago that this was about to happen. I think the mineral exploration assistance programme that we brought out three or four years ago was in direct response to the depressed condition of the gold mines at that time, and that programme is still in place today.

That programme was designed to attract the major, even the small, junior mining companies back into the gold mining communities, because when it first was implemented it applied to the Red Lake, Geraldton and Kirkland Lake areas only because we felt, from the advice of experts like Dr. Pye, that the place to look for an ore body is where there already is known to be an ore body.

That has proved itself out, because in Red Lake now we have iron there; in Kirkland Lake, of course, we have iron ore; we've seen what happened in the Timmins area with Texasgulf, so we know that that happens. That programme is in place and will continue. That is our thrust, to attract mineral activity, particularly exploration, to these specific areas.

I can't accept the argument that it's a provincial responsibility in total. When you go

back to, I believe it was 1948, prior to the fixing a goal by the United States government, the federal government did move in with the EGMA, The Emergency Gold Measures Assistance Act, because the gold mines in Canada at that time were having extreme difficulty in maintaining their operations at that price of gold. They subsidized the price of gold at that time, in 1948, and let's not forget that. They did it. They set the precedent.

The federal government is at the international table where the discussions of the International Monetary Fund take place. The province of Ontario is not. They control that. They control the tariffs, so they have that responsibility and I'm impressing, as hard as I can, upon the federal government that they must take up that responsibility. It's their responsibility on a national basis. The provinces don't have the resources that the federal government has to sustain the situation as it exists today. They accepted their responsibility in 1948. They did it willingly and it helped the gold mining communities and what we're asking is to give us that kind of consideration for a three-, four- or a five-year period to have it phased down.

We fully accept the fact that that ore body will run out eventually. It may not be economical but we're actually asking for a phase down. We're asking them to assist those companies in phasing down so that the shock to those miners in those communities will not be as severe as what happened at Bell Island in Newfoundland where the company gave the government and the community 72 days' notice. We don't want that to happen, and that was the strength of my appeal at the mine ministers' conference in St. John's, Newfoundland, where I had a captive audience and I had the federal minister, Mr. Gillespie, there.

Mr. Bain: How much would that subsidy, or whatever you want to call it—you can put a name tag on it if you want to—how much would that kind of assistance cost in Ontario for the federal government? Would it be \$20-some million?

Hon. Mr. Bernier: I believe the figure would have been \$26 million, if my memory serves me correctly.

Mr. Bain: That would be for Ontario or Canada?

Hon. Mr. Bernier: I think that was for Canada, on an annual basis.

Mr. Bain: So for Ontario, what would it be, \$15 million?

Hon. Mr. Bernier: I would say \$15 million or \$18 million, yes, I'm not sure. I'm just guessing.

[4:00]

Mr. Bain: You mentioned exploration and that's fine. I think we do need to get into exploration and bring in as many new mines as we can, but the problem with the gold mining communities is not the lack of ore bodies. The problem is that they're not able, because of the decline in price, to economically continue to exploit those ore bodies they already have, with the price as it is, for any sustained period of time.

Mr. Reid: How about nationalization?

Mr. Bain: Maybe Mr. Reid doesn't feel this is a serious problem as I do. I agree with you, the federal government doesn't act—and I've said it already once, it is shirking its responsibility—but as you've indicated to me just now, it would cost the province of Ontario approximately \$15 million to go ahead without the federal government if the federal government will not act. I think, when you're considering our overall provincial budget of well over—it depends on what you read—at least \$10 billion a year, \$15 million out of \$10 billion is not a lot of money, especially if you consider the contribution that all those gold mining communities across this province have made to the overall health and well-being of the economy of the entire province.

You go down on Bay Street and see how many fortunes that are on Bay Street that originated in the gold mines of northern Ontario and I don't think the province putting in \$15 million back into those gold mining communities is asking too much. So if the federal government will not act, will the provincial government act?

Hon. Mr. Bernier: I would like to be able to answer that question, but obviously I can't. It's hypothetical. If they will not act will we act?

Mr. Bain: How long are you going to wait? Are you going to wait until the mines close and when they're all closed you're going to say it's too late?

Hon. Mr. Bernier: No, we've met with the committee looking at the gold mining community situation from across Canada and they've indicated to us that they've got to have some kind of positive action by at least spring. With the price of gold fluctuating now between \$110-\$118 an ounce, our mines

can continue but they're fearful that it can go down to \$90 and it may drop even lower than that. If it does, then we're in very serious straits.

I have to tell you, with all due respect, your local federal member, I believe he's from Timmins, what's his name, Mr. Roy is it?

Mr. Bain: He's a Liberal. Yes, he's facing the same problem you're facing. He can't get the federal cabinet to agree to the importance of it.

Hon. Mr. Bernier: His initial action was not a positive one. He said I was way off base in left field and didn't know what I was talking about. Now, he's come a complete circle and now he's jumped on my bandwagon and is pounding the federal government, which he should be doing and should have been doing from day one.

Mr. Bain: The Liberals are slow to learn. They do have things to learn from you, but regardless of whether Mr. Roy was involved early or late or why he is now involved, the problem is that I was impressed by a copy of your St. John's speech when you were talking about the main community of Bell Island that faced the problems when the mine closed there. I might as well say, I couldn't help but feel the sentiment that you were portraying in those words. I felt you were genuinely concerned.

Hon. Mr. Bernier: I still am.

Mr. Bain: I kept reading and I expected you to say: "We're not going to let this happen in Ontario. Here's what we have to do," but unfortunately, nowhere in that speech did I see anything that you would be willing to do on your own if the federal government didn't come across.

Mr. Sargent: The Liberals will give you the answer right now. Arthur Meen says \$15 million is nothing. It's only a drop in the bucket, so there should be no problem.

Mr. Bain: So there should be no difficulty for a man of Mr. Bernier's stature in the cabinet to pry \$15 million out of the Conservative government to save communities that have given so much to this province.

Hon. Mr. Bernier: I can tell you the Treasurer and I have some meetings planned by ourselves, among our senior staff, that will be going on. I have indicated to the gold committee that once they've gone to Quebec and met with my counterpart there

I want their reaction from that visit, and I'm prepared to sit down with the Quebec Minister of Mines—providing this little exercise that they're going through now is successful—and maybe we can go to Ottawa jointly, hand in hand, because Quebec has a tremendous amount at stake too in this problem. So with that kind of a thrust, if I can get their support, I'm prepared to go to Ottawa and knock on doors there.

Mr. Bain: Would it be so difficult to say that you will not allow the gold-mining communities to go down the pipe? The Minister of Natural Resources for the Province of Ontario, a province whose economy is based on natural resources, should be one of the most powerful people, if not the most powerful person in the cabinet of this province. I would hope you could give the people of those communities a commitment. You realize yourself they are living on a sword's edge. They don't know what is going to happen. The companies themselves are in difficulty. Miners themselves are in difficulty. Whole communities don't know what is going to happen tomorrow and we just can't allow them to be wiped out.

Hon. Mr. Bernier: I don't intend to treat this lightly. In fact, I take pride in the fact that my staff and my own deputy minister flagged the issue. We took advantage—and I say "took advantage"—of the situation in St. John's because at those forums it is not really protocol for one minister to monopolize the time of his counterparts from other provinces on an issue like this. We usually deal with national problems and to single out a specific issue that wasn't affecting all provinces was a courtesy granted to me at that particular conference. I used every minute of it to pound home, and I intend to continue using all the efforts and all the weight I can muster up in this government to get the federal government to accept its responsibility. Too often, down the road, the federal government has shirked its responsibility and the province has moved in. We are going to knock on doors and we are going to keep the pressure on, I can assure you of that.

Mr. Sargent: That's one thing you guys and the socialists can get together on.

Hon. Mr. Bernier: It's a new twist for those boys to ask for subsidies for mining companies, but there are jobs involved.

Mr. Bain: I can indulge in a discussion of theoretic socialism and theoretic free-enterprise capitalism, which doesn't exist—

Hon. Mr. Bernier: Democratic socialism and a few others.

Mr. Bain: —but that kind of discussion does not do anything for anybody. It may be edifying to those of us who are down here but it's the same kind of discussion that we are getting into with—

I appreciate the efforts you have made and I appreciate the difficulties you face with the federal government, but when one considers the amount of money that would be needed out of the provincial treasury to secure these communities' future, I don't think it is too much. One thing I am sure you realize: The people in your riding must tell you on occasion that they don't care about this passing the buck back and forth between the federal government and the provincial government.

If somebody comes to you with a real problem and says, "My whole livelihood is threatened. The community is threatened. I am a 50-year-old miner. What am I going to do?" A 50-year-old miner is not in big demand in any other area. He's in demand in that gold mine because he has worked there for so long and he knows the mine and he's a real asset. But a miner in his fifties cannot pull up stakes and go to another community. So really what they want to know is, will you do something for them?

Unfortunately, I can see that you will not or cannot, and I hope it is cannot, because I know that if you have to you will go to your colleagues in your cabinet and say, "You have got to come up with that money for those communities." You may not want to tip your hand to the federal government and indicate to them now that you will step into the breach. Maybe it is just good negotiating technique to go to the feds first and make a strong case with them. I know that if that fails, you will make a strong case—as strong—to your own colleagues and you will get that money out of your own cabinet.

Hon. Mr. Bernier: I will just have to repeat that we picked up the ball, we ran with it, we went into their ball park with it. It's their responsibility. I was disappointed with the reaction that we immobilized the Manpower department, and could look forward to transfers from the gold-mining communities. What a weak-kneed, lack-lustre approach to a serious problem and I told the feds that.

Mr. McClellan: Take the money for Highway 400—\$60 million.

Hon. Mr. Bernier: It was as if they wanted to promote unemployment. All I can assure you is, we will use everything in our power to keep the pressure on.

Mr. Bain: Okay. I appreciate that I haven't been able to get the particular commitment that I wanted but I'm sure that if need be in the future we will get that commitment. A colleague of mine suggested that this problem, of course, could be overcome if in mining communities a portion of the mining revenue tax went into an emergency fund to overcome this problem.

The other item I would like to discuss with the minister is United Asbestos, and I will wait a second because I know the minister would want to be fully involved in the discussion. The situation at United Asbestos is certainly not a new one to the minister. I am very pleased with the most recent report that his ministry received from the occupational health protection branch, dated October 13 of this year, and made available to the members of this House.

Suffice to say that the report says there has been considerable improvement in dust conditions since the last visit of the engineer which was in April. I personally believe that that mine and that mill can be made to operate efficiently and, most importantly, safely. I don't feel it is too much to ask for any group of people in this province to expect their provincial government to see that proper and adequate health and safety standards are enforced in the work place.

I would just like for once and for all get rid of the red herring right here. One of the things I find personally most objectionable—and I am sure you can't mean it when you say it—is when cabinet ministers of this government say anywhere in this province that members representing northern Ontario do not want jobs.

Hon. Mr. Bernier: Your leader says that. Why don't you tell him?

Mr. Bain: If you mean by saying we do not want jobs, that we are going hard on mining companies or on any other companies because we want proper enforcement of safety standards, what we are asking for in northern Ontario is a safety standard that will be enforced all across this province. The standard as set by the government is two fibres time-weighted average, two fibres per cc. That's the provincial standard. What we demanded was that that standard be enforced at United Asbestos and wherever else there are asbestos operations in this province.

Are you saying to me that by my asking for that standard enforcement, I don't want those jobs? You are telling me I have to be willing to accept lower standards of enforcement for workers in northern Ontario so we won't lose a job? Is that what you are telling me? That's what I read by it, and that's something that we cannot accept. I personally cannot accept it. I was raised just slightly less than 25 miles from Matachewan. I grew up with many of the people who are still there. That community is again another example where mines were closed and there were over 3,500 people there in the late fifties. Mines were closed and there was nothing to support the community. The people left and actually physically moved their houses with them. The houses used to come through Elk Lake and as kids we would follow them through, as Ontario Hydro had to raise the wires across the bridge, etc., so that the houses could get through.

Many friends had to leave Matachewan so everybody in our area was extremely happy when it was announced a few years ago that the find was sufficient that it could now be mined. When United Asbestos started to set up its operation, we felt that this was really important. You know yourself if you have a friend who has been having difficult times and he comes into some good fortune, you are very happy for him. Everybody in our area, in all of Timiskaming, was very happy for the people in Matachewan.

But I do not feel that you can say in all conscience that we should be willing therefore to accept a lower standard of enforcement in Matachewan because we are afraid that United Asbestos might pull out if it has to live up to the standards as set by this province. I trust we have laid that one to rest once and for all. I know the minister cannot honestly say that he expects the standard of enforcement in Matachewan to be any less than anywhere else in this province.

That's what United Asbestos wanted. When United Asbestos went into Matachewan, it was a company originating in Quebec. I don't have to tell the minister the record that the asbestos industry had in Quebec. It is deplorable and the standard is lower than in Ontario and was never enforced. In Quebec the people now are fed up with it, even the Bourassa government. Maybe it's another situation where the Quebec government, the Liberal government there, has learned from the example set by Ontario. But even they are now going to begin to enforce a standard and they're also going to be in a situation where asbestos companies

there are going to have to compensate thousands of people because of the asbestos-related diseases they have contracted over the years because of the very poor conditions.

[4:15]

In the case of United Asbestos, because the government was prodded into acting, the standard is now being enforced and United Asbestos will not face the same difficulties of having to compensate workers in the future.

I have only one very real problem when it comes to the enforcement with United Asbestos. I look over some of the statements that the minister has made over time and I recall—and you can correct me if I'm wrong—you were reported to have said on February 25 in reference to United Asbestos: "... and rather than being the worst yet..." That phrase, "the worst yet," is a phrase that came out of one of the reports by Mr. Rajhans of the occupational health protection branch in the fall of 1975. It was only when this report was leaked that the people of this province and the people in Matachewan became aware of the condition.

In response to this phrase, "the worst yet," you said: "Far from being the worst yet, the conditions at the United Asbestos Incorporated plant at Matachewan are the best yet." That was a quote that was in the press from yourself on February 25. That was in contradiction to the reports that we had from Mr. Rajhans. But his reports were in the fall of 1975, so we might assume that conditions are improving. But when you talked to the men who work there, the conditions, in fact, had not improved. The attitude of the company was, "We're going to have to get production up first. When production has been taken care of, then we'll worry about enforcing health standards."

Unfortunately, that's not an acceptable attitude. We began to raise the question of exactly what was the government going to do to enforce the provincial-wide standards in Matachewan. Nothing really happened. Finally, I know the minister visited the mill and I hope you enjoyed your trip to my riding.

Hon. Mr. Bernier: It's always a pleasant experience.

Mr. Bain. Very good.

Hon. Mr. Bernier: There are some great people up there, some great Tories in Matachewan.

Mr. Bain: There are fine Tories in many parts of northern Ontario. Many of them, though, have become totally disenchanted with your government and many of them are now voting for other parties. It's very difficult to find a good Tory who is still a good Tory unless they happen to be in the riding association of that party. I know many and I have still got good friends in the Tory association and they are good people. The only problem is that this government is undercutting them, very much so.

Before the minister and I exchanged remarks about the quality of great people in Timiskaming, I was going to mention that the men, at the beginning of April, finally had had enough. They had been hoping there would be improvements but they were not coming. The men at United Asbestos, beginning on the eighth, began to walk off their jobs. I don't much mind what you call the action. It was not organized in any way. It was an action that came from desperation. The men were just fed up. They didn't figure anything was going to be done.

They figured there would be more reports; after all, there had been reports as early as the fall of 1975 and now they were up to April, 1976, and nothing had happened on those reports as far as they could see. So they went off the job. By April 9, approximately 90 per cent of the men were out. Their demand was very simple: that they would be happy to go back into that plant any time; all they wanted to do was to participate in the cleaning-up of that plant.

As the minister has accurately said in the past, there are not a lot of jobs in many parts of northern Ontario. These men were men who could not find another job easily, as we all know. There are just not that many jobs floating around in northern Ontario. But even knowing that they risk the job they had by going out, they still had to go out. As one guy said to me Saturday or Sunday afternoon, when I was talking with them—he was a young fellow—and he said: "You know, this is an important job to me. It's the first decent job I've had where I can make a reasonable income. But the other day when I was looking at my kid, I wanted to be able to see that kid when I was 35 and 40." That's what drove those men to finally go out.

Their demand was quite simple; they wanted to go back into that plant and help the company clean up. The company refused to accede to that demand. Eventually, a negotiating team from the company met with the workers and they managed to hammer

out a list of items that basically accepted that agreement, that in fact the company would agree to do that. By that time, you had intervened and you had closed down the plant.

Mr. Laughren: Mr. Chairman, I really do apologize here, but on a point of order—and I hope that Mr. Bain will forgive me—

Interjections.

Mr. Laughren: —there is something happening in Sudbury this afternoon that I think has some urgency and I wondered if I could take just a minute and ask a special request of you?

Mr. Reid: Well, Mr. Chairman, we have a ruling that whoever is speaking should—

Mr. Laughren: It concerns the death of three men.

Mr. Reid: —continue speaking—

Mr. Laughren: If the member for Rainy River doesn't want to pursue the problem of three men—

Mr. Reid: On a point of order, Mr. Chairman. I was cut off on the same kind of business earlier.

Mr. Chairman: No, it wasn't the same kind of business. We have deaths involved.

Mr. Bain: I will try to conclude my remarks quickly. I think the minister understands the problem that I have presented to him.

Mr. Reid: You want to play by the rules, we play by the rules.

Mr. Bain: The minister later, after examining it more fully, did in fact say in the House on April 23, referring to remarks that I had made—I had mentioned in a supplementary question that you had referred to the company officials at United Asbestos as having an unbelievable attitude—"Mr. Speaker, my remarks were to the effect that I was appalled at the attitude of management with regard to the occupational standards and the environmental conditions in their particular plant," referring of course, to United Asbestos. You go on to say: "We have changed the attitude." I assume that you, in talking to them, had changed their attitude, and from then on we were going to get standards lived up to.

In a letter to me on May 7, you mentioned that you again confirmed this position that the company had to live up to standards.

My difficulty is that I feel the company should have been made to live up to standards from the beginning. I feel it is much easier for a company, as they are setting up, to iron out the bugs. In the same letter of May 7th, you mentioned: "While I appreciate your recent concern over the conditions in the plant, I can assure you that my staff was well aware of the impending problems before construction began."

I know that you have some very capable technical people and so I feel right from the beginning you should have said: "Okay, you are going to have trouble bringing this kind of machinery, you are going to have trouble with this or that, why don't you iron it out?"

That's when you should have been doing it. I am glad that you have now done it, but I don't think the company should have been allowed to reach levels of production that were detrimental to the health of the workers. They should have been made to iron out the problems.

They have shown now by the most recent report of the occupational health protection branch that they can in fact do it when they are made to do it. The new mine manager, John Rogers, seems to be a very capable person. He knows the technical difficulties. He has assured both myself and Mr. Laughren, the member for Nickel Belt, that he knows how to correct the engineering problems, and he is setting about doing that, and he arrived there, I believe, in May and your most recent report indicates that he is having a great deal of success.

The workers, I must tell you, are co-operating fully. They are working hard to fix up that plant, and I feel that in the future you must make sure whenever a mine or plant or mill is coming into production, that you're right on top of the situation. You make sure that the company doesn't get away with anything. The company wants to make a profit and obviously if it doesn't have to worry about the enforcing of safety regulations, it can make a better profit. Once the company is made to realize that one just doesn't do that in Ontario, that one lives up to the standards from the beginning, then I think the problem will be rectified. As long as the companies know where they stand they're not going to backslide, but it's up to you to stay on their backs and I would hope that you would do that.

The other thing I would hope is that when people—whether they be members of Parliament or whether they be citizens who have a legitimate interest—inquire about information, you will make it available to them.

I find it abhorrent that we got these documents that indicated the situation in the fall of 1975 only because someone sent them to us, and I wonder myself if that is a very good way for a government to act. You can simply make things available to people who inquire and we will be happy to support you in saying we agree with you, the company has got to clean this up.

I would hope this whole problem with United Asbestos has shown the government that where you cover for companies like this you simply encourage them to ignore the law, and they have got to be made to live by the law. I would hope that you would make information available to people. Would you be willing—I assume you will, because we have been getting information from your ministry quite regularly—to send us copies of all the occupational health protection branch studies and anything that is done by your ministry or by the Ministry of Labour in that plant, or, for that matter, any other plant?

I know I have covered a number of areas with United Asbestos but, basically, once and for all, tell the people in northern Ontario that you do not expect them to accept a lower form of enforcement of the health standards in the work place than you expect the people of southern Ontario to accept, and that you will operate in an open fashion with the people of northern Ontario, with the people of Matachewan, and with all concerned citizens. Thank you, and if you would respond, I would appreciate it.

Hon. Mr. Bernier: Mr. Chairman, history has been written with regard to the United Asbestos operation. As the member has correctly pointed out, we have been monitoring that operation for some considerable time now and we feel that we are on the right road to solving the problem. You started to say that the industry right across the world is watching the operation at United Asbestos, because the standards we have set in the province of Ontario are the toughest anywhere in the world, so I think I can say that's an accomplishment we can look at with a great deal of pride. It's a new operation. We have to accept the fact that they were having extreme difficulties in bringing all this new equipment in. It wasn't old equipment. It was brand new, as you well know.

Mr. Bain: Some of it was reconditioned.

Hon. Mr. Bernier: Not that much of it.

Mr. Bain: Some of it was.

Hon. Mr. Bernier: It was a totally new operation and they had startup problems and

we admitted it right from day one. But that's all behind us now and as we go into the re-writing of The Mining Act one thing that we will have incorporated in there is that when a company like that comes forward with a development or facility like that it will submit its plans to us in advance.

Mr. Bain: So we are not going to have this kind of a problem again?

Hon. Mr. Bernier: That's right. We will be able to look at their plans and we will know what their ventilation is, and how the engineering design that they have gone into will affect the work place and the environment in the plant itself. That will be one of the revisions to The Mining Act, which will give us a handle in advance of the development of the facility itself, rather than trying to work with the company in production, when they're going through their testing stages, because we fully realize the hazards of asbestos dust. There is just no question, we have never treated it lightly, no question about that. It is a very serious thing. So I can give you that assurance, and as we move down the road, of course, the information will be made available to you. If you have any difficulty, just call me personally. I will make sure it's available to you.

Mr. Bain: And you should agree with me that working people of northern Ontario should not have to accept—

Hon. Mr. Bernier: No. No question. No question.

Mr. Bain: —a lower standard of enforcement than the people of southern Ontario?
[4:30]

Hon. Mr. Bernier: No question. There is no difference between northern Ontario and southern Ontario. It's a standard for all the province and all the people of the province, regardless of where the plant is established.

Mr. Bain: So we'll get the enforcement and we'll get the jobs too?

Hon. Mr. Bernier: That's right.

Mr. Laughren: Mr. Chairman, on a point of order. I believe I have a right to have a point of order heard by the chairman.

Mr. Chairman: State your point of order.

Mr. Laughren: Thank you. I didn't interrupt my colleague lightly. I was hoping to make the point before 4:30, when company officials could be reached in Sudbury, but as the minister may know there was an explosion

which killed three men at Sudbury Metals. The investigation is now going on by your officials, by the regional police—

Hon. Mr. Bernier: The Fire Marshal.

Mr. Laughren: —by the Fire Marshal, by the company, and the company officials came up from the United States for the investigation.

Hon. Mr. Bernier: The Ministry of Consumer and Commercial Relations is involved too.

Mr. Laughren: Yes, and at the present time the police and the company will not agree—primarily the company, I gather, although the police agree with the company—to allow the union representatives to take part in the investigation. All they're trying to do is take part in determining the cause so that the same thing will not happen again. In view of the recommendations by Ham and so forth, it just seems to me common sense that they're not there to play any games, they want to be part of that investigation because they think they have a role to play.

The reason I am interrupting the proceedings is to ask you whether or not you could have someone phone Falconbridge police and say to them: "For heaven's sake, it is in the best interests of everyone there that the workers who were involved, and the union, be allowed to take part in that investigation." I don't think it's asking too much. I was hoping to get it by 4:30 so that the company officials could be reached.

Hon. Mr. Bernier: I'm prepared to do that. If we're going to really believe in what Professor Ham said, and the thrust of the two years of deliberation at the royal commission—

Mr. Laughren: I might add, your officials were agreeable.

Hon. Mr. Bernier: Yes. I'll certainly instruct my staff to make a phone call to that company and ensure that those responsible union people who have knowledge of the situation and who are qualified to be a part of that investigation team be allowed in there.

Mr. Gaunt: Mr. Chairman, I just wanted to ask what the current status is of the working group studying the extractive industry in the province of Ontario at the moment. Perhaps the minister knows this working group better by name if I were to refer it to the Jewett committee, the committee that is studying the sand and gravel industry in

the province. Could the minister tell me when the report is coming in? They've been travelling around the province, I understand, seeking out views and opinion from various people who are involved—municipalities, people in the industry and so on—and I gather that process is now completed and I think they will be coming up with some recommendations. Has the minister any idea of the time frame?

Hon. Mr. Bernier: First, I'm most pleased with the makeup of the committee, both from the chairman right through to every one of the members. They're enthusiastic. They've spent literally hours working on this particular situation. Their interest, their concern is just magnificent, and I just want to make that clear and put it on the record. They've done it without a per diem allowance. Many of these committees get a per diem allowance but these people have not even questioned that. They've got their meagre little expenses and I'm told that not one of them has missed a meeting. It's that kind of enthusiasm, that kind of sincerity. Mr. Jewett indicated to the committee about an hour ago that he would be reporting by the end of this year.

Mr. Gaunt: By the end of this year? I'm sorry I missed that, Mr. Chairman. Perhaps there was some discussion about an hour ago with respect to some of the other matters that I was going to raise and, if so, you stop me because I can read it in Hansard. I don't want to take the time of the committee.

Is there any kind of predisposition on the part of the ministry at this particular time insofar as what can be done in the future to sort out the problems in this industry? It seems to me that eventually we are going to have to get to the place where we take an inventory of all the aggregate in the Province of Ontario. Once we find out how much we have and where, we can schedule the extraction of that material. Till we know that, we just fly by the seat of our pants, and if a company decides it is going to start a gravel pit in location "A," it starts.

Hon. Mr. Bernier: Well, Mr. Gaunt, if I may just interrupt, I can assure you that all the points you raised have been carefully gone into. I know Mr. Jewett would just love to get up and expound at great lengths because he's that enthusiastic and that familiar with it. I think if we waited for his report to come down, maybe we could debate it at that particular time, because it will be given broad distribution. The amount of aggregate study that we have done on a

broad basis across southern Ontario and southwestern Ontario is all part and parcel of this whole study and review. So the concerns you have have been the concerns of the committee and they will be addressing themselves to them.

Mr. Gaunt: I just want to say, I am of the view, and I think it is widespread, that the committee has done a very good job, a very thorough job, and we will be looking forward to that report.

While I am on that, what's the status of the appeal to the cabinet with respect to the rezoning of lands in the township of Huron? I believe it is in Mr. Johnson's riding.

Hon. Mr. Bernier: We haven't dealt with it, as far as I know.

Mr. Gaunt: I think they appealed to the cabinet in May and this was with respect to two companies—

Hon. Mr. Bernier: Yes.

Mr. Gaunt: —I think Telephone City and Premier Concrete Products.

Hon. Mr. Bernier: Cabinet has not dealt with it yet.

Mr. Gaunt: Is there any time frame within which that will be dealt with?

Hon. Mr. Bernier: I don't know that there is. When these things come before cabinet, there's a long slow process of getting there before they deal with them. As to the timing, I don't know. It shouldn't be too long.

Mr. Johnson: The longer and slower the better.

Hon. Mr. Bernier: We have to deal with it, really. These fields have to be dealt with.

Mr. Gaunt: It is just a matter of interest. I wondered when it would be coming. I suppose from a political point of view. It's a difficult matter and it's one which is going to cause problems no matter which way it goes.

Item 1 agreed to.

On item 2, forest management:

Mr. Reid: Mr. Chairman, I want to discuss forest management and forest regeneration.

Hon. Mr. Bernier: Mr. Reid, could I be excused for about five minutes? Two minutes? The need is urgent.

Mr. Reid: Perhaps we should just halt proceedings until the minister returns. While he

is gone I could ask the forestry people in the ministry to have the figures ready or prepared in regard to the six largest timber licences that are being held in the province of Ontario. The other part of the information that I would like is the timber licences that have been handed out—not handed out but granted shall we say—in the last two years, particularly to any of those six large companies?

Mr. Yakabuski: You could go all the way back to the Hepburn days.

Mr. Reid: Well, I would say—

Mr. Chairman: Order. Mr. Reid has the floor.

Mr. Stokes: Some of us are not that old to remember that far back.

Mr. Reid: Mr. Chairman, perhaps I could go into the preamble while we are waiting for the minister. I trust he will act more speedily in this business that he has currently than he has in regenerating the forests.

The Ministry of Natural Resources has an unbelievable number of reports. We could start with 1947 or 1948 and the Ontario royal commission on forestry, through to the forest unit study of 1966, I believe, or 1967, and the report of the timber revenue task force, the Armson report and the proposed policy for controlling the size of clear cuts in northern forest regions of Ontario. We could go on and on naming reports that have been prepared under the aegis of the Ministry of Natural Resources and reports that have been done by other foresters in the field. What they all have in common, the single thread that runs through them all, is the fact that we are not doing enough forest regeneration in the province of Ontario.

I would like to quote briefly from the report of the timber revenue task force. On page 26, it says: "The estimated maximum productivity of Ontario's forests, if intensively managed using existing techniques, is an annual yield of 20 million cunits of wood. Current government activity in this field is adequate for the maintenance of an annual yield of only 5.5 million cunits, a shortfall of some 15 million cunits."

The report goes on to say: "While this is barely adequate for current levels, an annual harvest of between eight and nine million cunits of wood is anticipated by 1980. Given a continuance of the current level of regeneration, there is a distinct potential for timber shortages in the 1980s."

We can go to other reports. Let's go for a moment to the proposed policy for controlling the size of clearcuts. One page 2 of that report, it states: "The objective of the division of forests is to provide for an optimum continuous contribution to the economy by forest-based industries consistent with sound environmental practices and to provide for other uses of the forest." The report also says: "That part of the division objective, continuous contribution, requires that forest productivity be maintained."

In 1968 when I first was the critic of the then Ministry of Lands and Forests, I raised the problem that, arising from the forestry study unit that year, we were falling behind by 100,000 acres in regenerating the forests. The programme has fallen ever-increasingly behind, particularly in regard to black spruce and pine which are the primary wood products used in the pulp and paper industry. Ever since 1968 we have been falling behind in this regard.

It's been estimated—and I wonder if perhaps the minister's officials could clarify this—that right now we are two million acres behind in reforesting in the province of Ontario. When we consider the time frame in which it's necessary to plant these trees and for them to grow to maturity, anywhere from 60 to 90 years for spruce and pine, then we are obviously going to have an extreme shortfall in wood supply in the 1980s, let alone the year 2020 that we have been talking about previously. When we consider that in northwestern Ontario 65 per cent of the employment is in the wood industry, and about the same amount is the total amount involved in the income of the goods that are shipped from that area with a smaller amount from northeastern Ontario, I would say to the minister that the record of the government in providing a continuous wood harvest which is its responsibility under The BNA Act, which it accepted by amendments to The Crown Timber Act in 1962, is nothing short of criminal and a betrayal of the public trust in this regard.

[4:45]

When we look at the reforestation programme or lack of it in the province of Ontario, I think we should probably rename the ministry the ministry of natural disasters rather than the Ministry of Natural Resources. The Reed Paper thing has really focused people's attention, finally, on this whole matter of reforestation and regeneration. I'm interested to know—and I wonder if I could get some answers right now—about the operations of Kimberly-Clark in northwestern Ontario.

I'd like to know if my information is correct that last year Kimberly-Clark was granted an additional licence of 4,859.6 square miles.

Hon. Mr. Bernier: Three years ago.

Mr. Reid: Three years ago. Last year they embarked—

Hon. Mr. Bernier: Total agreement with the member for Lake Nipigon.

Mr. Reid: Yes, well we're going to get to that, believe me. Their capital cost of the expansion to their mills was \$240 million and I'd like to ask the minister if, in fact, he could tell us exactly where the additional licences granted to Kimberly-Clark are in a geographical sense? Are they not somewhere just south and a little east of the proposed Reed cut?

Hon. Mr. Bernier: Exactly right.

Mr. Reid: That's very interesting. Was there any environmental assessment done on this project?

Hon. Mr. Bernier: No.

Mr. Reid: The licences were granted then without—did your ministry do a study of the area?

Hon. Mr. Bernier: We had the inventory of the area in which there were finite bases that we have to the area to the west of that.

Mr. Reid: But it's basically the same type of forest as Reed Paper is looking at, is it not?

Hon. Mr. Bernier: Not being an expert, I—maybe the experts could.

Mr. Lockwood: Approximately the same, yes.

Mr. Reid: It's the same type. So that this additional licence of almost 5,000 square miles to Kimberly-Clark was granted some three years ago. Their mill expansion cost was some \$240 million. I understand there are about 675 jobs involved. Yet it seems strange that we didn't hear anything about that particular expansion. There wasn't any call, particularly by the NDP, at that time that that project shouldn't go ahead. It's rather strange to me in view of what's happened in the last little while. I'd like to read back into the record the opening remarks of the member for Lake Nipigon, whose riding all this falls into. In regard to Reed Paper, "It is an area that we have to protect with all of the ingenuity and all of the zealotness that we can muster because once that's gone, it's all gone."

If I can quote him again: "That's why we collectively are concerned about this and we'll be watching with a great deal of interest the kind of development that will take place over the next 18 months when you expect that the jury will be in regard to whether or not there will be sufficient wood fibre on that 18,000 square miles to justify the kind of expenditure that you and Reed Paper are talking about" etc.

We're talking about forest practices, clear cutting, waste in the wood, talking about Reed Paper and the size of the limits. It's rather interesting to me that one of the NDP members—when they have it in their own riding—doesn't seem to be quite so concerned about the forestry practices or the size of timber limits that are being granted to these various companies.

I want to spend some time on talking about the size of timber limits, the waste in the forest as a result, and clear-cutting methods. The 1947 study of the royal commission pointed out that the granting of large timber licences in fact led to waste in the forest because the company—and I suppose it's only common sense—that have limits of this size, tend to think to themselves that they have a large area that they can cover, and that they might not be quite as concerned about the dwindling amount of wood that might be available.

This has been underlined again by the forest unit study of 1967, the recent Armson report commissioned by the minister in June of this year. One of the minister's officials, one of the top people in his ministry, at the Ontario Foresters Association meeting in late August in Thunder Bay indicated he felt it was his opinion, if I understood him correctly, that large timber licences could very well lead to waste in the bush, obviously just because of the size of these limits.

I think waste is caused because of the forestry practices followed by the companies. They are taking eight-foot lengths in many cases and leaving as waste anything that is chopped off that doesn't fit into that eight foot. Perhaps it should go into chips, for instance. The other practice of bulldozing down every species that isn't used in that particular mill and leaving it to rot in the ground is just one of the examples of the waste that is going in. We obviously cannot afford it if we look at the figures provided by the minister himself.

The other area we have to look very closely at is the system of clear cutting. I referred to the proposal for controlling clear cuts of June, 1976. The report says on

page 1: "Clear cutting as a commercial logging system has been used in the province since the earliest days of logging but its main objective is to remove the marketable trees as economically as possible, not to promote regeneration and other forest values."

It goes on: "The rapid increase in the size of modern forest industries, the trend to complete mechanization and the utilization of all species have resulted in contiguous clear-cut areas in northern Ontario extending in extreme cases up to 50,000 acres." The report says this is not an acceptable application of the clear-cut silvicultural system. "The large clear cuts drastically alter wildlife habitat and create aesthetically objectionable landscapes."

Because time is short and there are other people who are interested, I would like to go back. I would like to know if those figures are handy for the size of licences that have been handed out in the last two or three years to the larger companies. It is my understanding—and perhaps Mr. Lockwood could confirm this—that the bulk of Crown timber dues are paid largely by a relatively small number of companies, perhaps a dozen in all; is that correct?

Mr. Lockwood: The bulk of the dues does come from about 10 large pulp and paper companies and saw-milling companies; that is correct.

Mr. Reid: Can you tell us, Mr. Lockwood, in the last two or three years or have you a list there of the companies that have been granted increased timber licences?

Mr. Lockwood: I haven't got those figures right with me. They are being compiled for you and we'll have an answer shortly.

Mr. Reid: Thank you. One of the side effects of all this is that the small independent operator, particularly in the sawmill industry, is being squeezed out so that there is very little opportunity for the existing sawmills and the small ones—not the ones operated or owned by large companies—to operate. I hope the minister would deal with that.

I would like to come back to the question. Do we have the figure at least for Kimberly-Clark? Are my figures correct on the size of the timber licence that they got three years ago?

Hon. Mr. Bernier: They should be. We just gave it to you this afternoon.

Mr. Reid: Your figures aren't always correct though. That is why I want to check.

Could you explain perhaps a little further then just what studies were undergone by the ministry in regard to regeneration and reforestation? If we are concerned about the Reed Paper company, it seems to me we should be concerned about Kimberly-Clark. I am sorry we haven't heard from Mr. Lewis on Kimberly-Clark but there is probably an obvious reason for that.

Mr. Stokes: On a point of order, Mr. Chairman, I think the member for Rainy River is trying to read something into this situation that isn't there. We are just as concerned about all 105 million acres of the forest land in the province of Ontario, if he took trouble to read back a little bit further, to some of my speeches. I don't mind him quoting me; in fact I find it kind of flattering that he should.

Mr. Reid: You have been quoting me ever since 1968.

Mr. Stokes: You have a lot to learn about the forest industry, as do we all, but for the member for Rainy River to claim to have a monopoly on all the wisdom in this House, in the Legislature, is somewhat questionable. But he is sort of imputing motives that just because Kimberly-Clark's operations happen to be in Lake Nipigon riding that I am sort of shrinking off. I'm not in the least. Any time I have ever spoken on forest management policy—

Mr. Reid: I don't see any point of order.

Mr. Stokes: Well, he is imputing motives. He is suggesting that simply because the Kimberly-Clark operation was in my riding that I backed off. If I still have the floor, Mr. Chairman—

Mr. Reid: Is this on the point of order?

Mr. Stokes: —Kimberly-Clark has always been known as a company that was far and away ahead of any of its competitors with regard to good forest operations. They have their own nurseries. They plant trees on their own limits that aren't subsidized by the Ministry of Natural Resources, which isn't the case with other licence-holders. If I didn't think—

Mr. Reid: Are they not reimbursed for that by the ministry of lands and forests?

Mr. Stokes: —that Kimberly-Clark was acting in a good corporate manner I would be the first one to come before this committee and say so. The area that you are speaking of is less than one-third of the

area that is involved in the Reed Paper understanding, and I think everybody, including the member for Rainy River should be concerned about the last vestige of a boreal forest that we have that isn't under licence to somebody else.

Mr. Reid: Kimberly-Clark's was the second last and we didn't seem to be overly concerned about that.

Mr. Stokes: No. Great Lakes was the second last.

Mr. Bain: Get your facts straight, Pat.

Mr. Reid: In that area. Well, I am concerned. What do we know about this area that is under licence to Kimberly-Clark? Can we relate it to the Reed Paper situation?

Hon. Mr. Bernier: I have Mr. Lockwood here who is the executive director of the division of—

Mr. Stokes: It would be interesting to know, Mr. Chairman, whether the member for Rainy River agrees that Reed Paper should be allowed to go ahead without any assurances of good forestry habits, good silvicultural habits—

Mr. Reid: I am sure, Jack, if it had been in your riding, it would have been all right.

Hon. Mr. Bernier: The Ministry of Natural Resources and the government are far ahead of both of you fellows.

Mr. Reid: I mean, you can't have it both ways.

Hon. Mr. Bernier: We are far ahead of both of you fellows.

Mr. Reid: I want a response, Mr. Chairman, the member for Lake Nipigon's leader has gone around the province and has been quite vociferous on the air in saying that they are concerned about the size of licences, that they think the project for Reed Paper should be stopped and shouldn't go ahead, which is not even what the Indians in the area are saying. I think it is time that we didn't talk out of both sides of our mouth—

Hon. Mr. Bernier: I will agree with that.

Mr. Stokes: On another point of order.

Mr. Haggerty: No point of order.

Mr. Reid: —to try to get the votes down in southern Ontario, but when it happens to be an NDP member's riding, it is a different proposition.

Mr. Stokes: On another point of order, that is not what the leader of the New Democratic Party has been saying. He is saying that they should have a complete understanding of the way in which it is going to be harvested, with complete assurances that the area is going to be able to rehabilitate itself. That is precisely what he has been saying.

Hon. Mr. Bernier: With all due respect, that's not true.

Mr. Yakabuski: He says it should be stopped.

Mr. Stokes: Until a full investigation has taken place.

Mr. Reid: We didn't have a full investigation into giving the 5,000 square miles to Kimberly-Clark but I suppose that's politics.

Mr. Stokes: It may be of some interest for the committee to know that the member for Rainy River spoke at St. Lawrence Centre and he was very critical of Reed Paper and had some very serious reservations about it going ahead until all the facts were known.

Mr. Reid: I never said and I never will say that a project shouldn't go ahead because I think I can get some votes in southern Ontario.

Mr. Stokes: And that's not the—

Mr. Reid: You wouldn't go up to your riding, Jack, and say to the people, "We'll stop the project."

Mr. Stokes: I have never said that it should be stopped.

Mr. Reid: Well, it's in the paper. The press are here, they know it. But I want to go back—

Mr. Stokes: I am not interested in what the press said; I am interested in what he said.

[5.00]

Mr. Reid: Well, I've heard your leader say it. But anyway, to go back to the questions; Mr. Lockwood, we were talking about the experience you've had with Kimberly-Clark in this forest area and the studies that were done. Can you give us some more details on that please?

Mr. Lockwood: As far as the assignment of the new licence to Kimberly-Clark, this is based on our forest resources inventory processes and they, like all other companies,

will be required to carry out operational cruises to satisfy our management plan requirements. This will indeed give us the type of information we need to evaluate as to what type of cutting restrictions should be imposed on their operation in that area.

Mr. Reid: Can you see relating what they give you and when is that due?

Mr. Lockwood: I can't answer your question as to the date we have specified to them that they must have their management plan in, but it will indeed be in short order, a matter of a year or two. Is your question about relating it to—

Mr. Reid: Will whatever information is forthcoming be applicable, do you feel, to the Reed proposal in regard to the type of forest, the soil conditions, the possible natural regeneration and so on?

Mr. Lockwood: Well, the same principles obviously will apply. Whether the land is exactly similar or not remains to be seen because the area is in fact south of much of the Reed Paper area, so the management prescriptions will be designed to fit the needs of that particular area, whatever they may be.

Mr. Reid: So you don't feel, really, that you'll be able to relate that information necessarily to Reed.

Mr. Lockwood: Some of it would be, obviously, but the extent to which it can be extrapolated to other areas would be guesswork on my part at this stage.

Mr. Reid: Can I have some comment from the minister, and maybe Mr. Lockwood, on the proposed policy for controlling the size of clear cuts? I presume we've all had a chance to look at that. Are you, in fact, going to change that policy and require companies not to proceed any longer with clear cuts, especially in those areas where, obviously, regeneration is going to be difficult because of clear-cut policy?

Hon. Mr. Bernier: Mr. Chairman, if I may just comment—the word "clear cut" to the ears of the layman means a parking-lot type of operation where you just clear a football field—the whole countryside is cleared. If you've read the report, clear cut doesn't mean that. The clear-cut operation and the controlling of all clear cut is the whole thrust of the report that we have here, where we clear cut within specific areas.

Mr. Reid: You're cutting down the size of the clear cut.

Hon. Mr. Bernier: Cutting down the size, this is right. This is the same proposal and the same problem that I mentioned in the opening of my estimates that Sweden is dealing with at the present time. We're working with the industry very closely. We've circulated this report to the industry because it's going to be costly to them. There's no question. They may be building roads and only extracting maybe 50, 60 per cent of the merchantable timber on that particular road. This has to be worked out and we're getting their reaction. It is our intention to go this direction, not only for the regeneration but for wildlife habitat, which is also involved in this.

Mr. Lockwood: As you recognize, the report is a proposed clear-cut guideline for Ontario and deals with aspects of forestry operations. One basic premise, of course, is that we recognize that clear cutting is a justifiable, sound, silvicultural system within the boreal forests of this country and yet we recognize that we have to be a heck of a lot more cognizant of the protection of site for wildlife, to enhance regeneration, to deal with aesthetics, to deal with whatever environmental guideline criteria are imposed on us under The Environmental Assessment Act.

The purpose of the report is to get feedback from the many hundreds of people to whom we circulated it as to what is an acceptable size of a clear cut to meet all the various needs which we've outlined.

Mr. Reid: Mr. Lockwood, does the report not indicate that large clear cuts, of which we have many in northwestern Ontario, are detrimental to the regeneration of the forest and that we shouldn't really be lagging in getting this proposed policy, because what's coming through to me, first of all, is that we had some bad forestry management and practices in the past. It sounds to me as if they're going to continue in the foreseeable future and that, in fact, because of the problems of regenerating the forests particularly—not even dealing with what it does to the wildlife habitat or what happens in regard to soil erosion and the aesthetics and so on—this is something that we shouldn't be allowing to continue at all any more because we're just heaping problems upon problems.

Mr. Lockwood: What you say is correct. The report does, in fact, say that and there are people who will argue with us. In fact, the federal research people in Sault Ste. Marie already have argued with our contention that these large clear cuts are bad. Our position is, as a result of our own observations, that the size of clear cuts should be

reduced for the various reasons that we outlined. The question is reduced by how much, under what conditions, under what forest stands and what soil conditions?

Mr. Reid: The report says on page three: "Sites have been removed from a productive state or, at the very least, had their productivity impaired due to excessive exposure and large clear cuts." I think this report is fairly explicit. Mr. Lockwood, is my figure of some two million acres behind in regeneration a fairly accurate one?

Mr. Lockwood: On the basis of the fact that our own documents indicate that we are regenerating half of what we should be, one could, by simple arithmetic, arrive at a figure of two million acres. But I think it should be remembered that even though some acres are not regenerated by our physical processes, they do come back and they do regenerate, but they will produce a lower volume of wood than they would if we supplemented what nature supplies.

Mr. Reid: So the two million is a fairly accurate figure, you'd say; I mean as a guesstimate though?

Mr. Lockwood: We can't argue with it.

Mr. Reid: Is it true that we're only replacing, by artificial regeneration or naturally, one tree for every three that's being cut in the province?

Mr. Lockwood: I think that's a bit of gymnastics with arithmetic, but we have said in our forest production policy book that one-third of the forest is regenerating on its own; one-third we haven't the resources and capability to regenerate now, and our target is to regenerate the other third. Therefore, one could say it is a direct ratio of three to one. I think that's an over-simplification.

Mr. Reid: You feel that is an over-simplification? What is the total acreage per year of allowable cut across the province now?

Mr. Lockwood: Do you mean what is actually cut clear?

Mr. Reid: Yes.

Mr. Lockwood: It varies from year to year, Mr. Reid. By 1975-76 our cut was down by about 40 per cent, so I would say the area that was cut over was about 350,000 acres. The year prior to that it was around 450,000 to 480,000 acres.

Mr. Reid: Would you agree, Mr. Lockwood, that by about the early 1980s we're

going to be using all the allowable cut that we have in the province, and in fact we might be running into shortages by then?

Mr. Lockwood: I would agree that with the proposals and the commitments made, we will be very close to the allowable cut of our conifer species if, in fact, these proposals come on stream and are going full bore. I don't recall the second part of your question.

Mr. Reid: Do you feel there will be a shortage by the 1980s if everything goes ahead as planned?

Mr. Lockwood: I have no facts at all to support any such contention. In my opinion the answer is no.

Mr. Reid: Do you feel then that, in fact, there won't be a shortage in the 1980s and that, in fact, there will be sufficient allowable cut?

Mr. Lockwood: That is correct.

Mr. Reid: It seems to me if we just quit having government reports on forestry, we could cut down the allowable cut in the province.

Mr. Lockwood: I am concerned about that because the reports of the government, including the timber revenue report of October, 1975, which I have already read into the record, indicates—just to repeat it:

“The estimated maximum productivity of Ontario's forest, if intensively managed using existing techniques, is an annual yield of 20 million cunits of wood. Current government activity in this field is adequate for the maintenance of an annual yield of only 5.5 million cunits.”

And that's quite a spread. It goes on to say:

“While this is barely adequate for current levels, an annual harvest of between eight and nine million cunits of wood is anticipated by 1980.”

Mr. Lockwood: I don't think there is any conflict there at all, Mr. Reid. What we are saying is that at the present consumption level by industry we are utilizing 525,000 cunits. With the expansion proposals coming, as I said before, if they all go ahead—

Mr. Stokes: You mean acres?

Hon. Mr. Bernier: Cunits.

Mr. Lockwood: Cunits.

Mr. Herridge: Five point five million cunits.

Mr. Lockwood: Five million cunits.

Mr. Stokes: You are going to harvest over five million cunits on about 500,000 acres?

Mr. Lockwood: Yes.

Mr. Stokes: But you said 525,000 cunits.

Mr. Lockwood: Well, I didn't mean to. I meant 525 million cubic feet—

Mr. Stokes: No, cunits.

Mr. Lockwood: —or 5.25 million cunits. Sorry. I'm getting mixed up in my answer.

If and when these new proposals come on stream, then they will be using very close to 9.1 million cunits; that means, therefore, that the amount of regeneration work we should be doing will, in fact, double.

Mr. Reid: It's work you should be doing, but you aren't. When we look at the Crown revenue from timber, the Crown dues stumpage and so on, I believe, brought in approximately \$40 million last year, while under the whole programme in this estimate, we are spending about \$33 million, including labour and everything else. We are not even spending the money that we are getting back from the forestry industry, not counting the income tax that they pay.

I suppose my question then has to go to the minister: Are you going to increase this programme? While we can argue that it might be 1980 before there's a shortage, or 1985 or 1990, at the rate we are going obviously there's going to be a shortage sooner than later. What steps is the ministry taking to increase the regeneration programme?

Hon. Mr. Bernier: Mr. Chairman, I might add that in addition to the figure that Mr. Reid has pointed out, there are the forest protection costs, which are on top of that, and the cost of access roads that are used in forest protection and regeneration programmes. So you could push the total right over the \$40 million, with the moneys that have already been approved during the course of these estimates.

Certainly, our production policy, which we came out with some time ago, indicates we will be going in that particular direction and increasing the regeneration budget. There is just no question, as the demand increases and we accelerate our forest activity, that if we are going to guarantee a wood supply to the industries that were attracted to northern Ontario, we have to increase our silviculture and regeneration programmes. And we intend to do that.

[5:15]

Mr. Reid: If we take the ministry's figures from 1974, which indicated a shortage in the year 2020, not even dealing with the figures that indicate there will be a shortage by 1980, given the fact that it takes a minimum of 60 years to grow a tree, and longer the farther north you go, your programme is hardly adequate. When one considers that we are dealing with a renewable resource that we can keep planting and harvesting continuously for thousands and thousands of years, it boggles the mind why we haven't done that.

Hon. Mr. Bernier: I would point out that in 1972 we did come out with our forest production policy to go on with a goal of 9.1 million cunits by the year 2020. Here we are, only four years later, and already we are revising this to the year 2050.

Mr. Reid: And every year you are falling farther and farther behind in the regeneration.

Hon. Mr. Bernier: But there is a reason for that. The acceleration that we have had in forest industries in northern Ontario has just been outstanding. It is part of the government's efforts to have great utilization and full utilization of all the species. You will recall in my opening remarks I made a list of all those new industries that we have attracted to northern Ontario, be they at Kapuskasing, Terrace Bay, Marathon, Atikokan, Thunder Bay and, hopefully, in the not too distant future, if we can see the Reed Paper going ahead, but that's a long-range one. Those are already in place, so there has been a tremendous acceleration in the amount of wood fibre being used in the last three years. It has made us look at this policy again, readjust it and bring it up to date.

Mr. Reid: But the fact remains for the number of years this government has been in power, you haven't carried out sufficient and adequate regeneration. Can we deal with the question of wastage in the woods? Have you got any policies to require companies to use the wood that is being left in the bush because of the eight-foot policy or the other wood species that are just being bulldozed down and left there? Have you considered incentives to the woods industries? Have you considered disincentives by the way of increased Crown dues or increased taxation on the wood that is being wasted?

Hon. Mr. Bernier: I will just comment and I will ask Mr. Lockwood to fill in the tech-

nical details. Certainly in the last three years, as the member for Rainy River is very much aware, there is the thrust we have had in having greater utilization of those species which up to this point in time were not being used. I refer specifically to the Plushwood plant in Atikokan. Here we had a mill at Fort Frances and Thunder Bay. Those areas were licensed to those paper mills who used spruce and jackpine.

We had a surplus of poplar and birch but up to this time we couldn't give it away. We went out with the help of the local community and found a company that could use that species. Up to this point in time, it was just a weed species. We are getting broader utilization from those species in some areas, for example, north of the Sioux Lookout area, north of Lac Seul, where we had problems with red rot in jackpine. We readjusted the Crown's stumpage dues to assist that mill but they're still in trouble. We do this and have those incentives and have those management tools.

Mr. Lockwood might want to comment on the wastage aspect of it.

Mr. Lockwood: There are provisions in The Crown Timber Act to charge companies for undue waste, for wasteful practices. But over and beyond that again, there's the fact, as the minister pointed out, that there are a great many species that cannot be utilized by the existing industries in producing their products, and these are bypassed. The best means of getting them to utilize that kind of material is to have diversification of our industry so that they can employ that stuff, log it and take it out at the same time as they are going in for the primary product. Much of your expressed concern about allowable cuts and shortfalls can, and will, be taken care of by the better utilization of so-called waste, the stuff that is left behind now by full-tree logging and so forth.

Mr. Reid: The obvious question is has anyone—I suppose the word charged is the wrong charge—but has the ministry taken any timber companies and said: "All right, you've been wasting in the bush. You're assessed X number of dollars damage under The Crown Timber Act in this regard?"

Mr. Lockwood: This has been done, yes. There have been charges, but not in the last year.

Mr. Reid: Could you provide us with the list of those companies that have been charged and what they have been charged? Has it been very large amounts?

Mr. Lockwood: For wastage?

Mr. Reid: Yes, for wastage.

Mr. Lockwood: I do not have that information. We can get it for you.

Mr. Reid: Could I ask, is my information correct that we're importing wood, particularly from the province of Manitoba? I believe Boise Cascade, for instance, has been bringing wood from northern Manitoba. Is that correct?

Mr. Lockwood: That is correct. Boise Cascade imports something like 40,000 cunits a year from Manitoba and about 150,000 cunits a year from Minnesota. But there are also exports on our part to counter-balance these.

Mr. Reid: It seems to be a bit of a contradiction when we're talking about waste in the forest, and then we have to import it from other jurisdictions. I'd like to just go back to the Kimberly-Clark—

Dr. Reynolds: Excuse me, Mr. Reid. I think there might be a possible misconception here. I think it would be worthwhile, if the time is available to you, to have Mr. Lockwood explain why these exchanges take place. It does look superficially unrealistic, but it's a matter of balancing species and that sort of thing. If you'd like to have that information I think it's worthwhile.

Mr. Reid: Sure.

Mr. Lockwood: It's partly because they own some land in Minnesota and they can get this wood cut there and delivered cheaper. Minnesota, to be honest, has told us that it may stop this some time in the near future.

Mr. Reid: How about the wood coming from northern Manitoba? I would think just the transportation costs have to be fantastic.

Mr. Lockwood: I honestly don't know the economics of why they do this, from their point of view.

Mr. Reid: Let's go back if we may for a minute to Kimberly-Clark again and a question I had intended to ask. Before that expansion went forward and some 5,000 square miles were granted additionally to them, was there any consultation with the native people in the area? Was there any requirement that they in fact be provided with jobs or job training in regard to that expansion? Were they consulted at all in this regard?

Hon. Mr. Bernier: Not prior to the granting of that timber licence. This was the normal

practice—I think it was three or four years ago—when a proposal did come before the ministry, it was carefully examined from our point of view, conditions would have to be written into the licence, but subsequent to that we've had discussions with the Fort Hope band and I'm most enthusiastic with the approach that they have taken. The deputy and I were up there just a few months ago and they presented us with a band council resolution indicating their desire to have an all-weather road. I think Mr. Stokes is aware of this—

Mr. Reid: I think they've applied for an LIP grant for it.

Hon. Mr. Bernier: —an all-weather road into their reserve. They've asked us to consider a larger cutting area because they want to become involved. They want to be part of the economic development, the planning and the whole resource business and the extraction of those resources for the benefit of their particular people. They want to be involved in the whole aspect of it be it construction of filling stations along the road or cutting operations which would supply timber to the Kimberly-Clark mill. It's a different situation.

Mr. Reid: Is there any chance today of getting a commitment from the minister? I presume he is going to continue with the policy of granting these companies rather large acreages. On one hand, I can see the reason for it because before they are going to expend millions of dollars for expansion, they pretty well have to have a guaranteed wood supply so they know they're going to get some return on their investment. Can we not say—and would the minister not agree—that in this day and age particularly, before projects of this size go forward, whether it be for Reed or any other industry, there should be guidelines which are understood by everybody, set up for consultation prior to any agreement being signed, so we don't have people such as the people of Treaty 9 or at Ear Falls or Red Lake or anywhere else constantly wondering what's going to happen to them; and so that the kinds of procedures which the government has set up somewhat reluctantly can take place so we don't have to go through this kind of issue again?

Hon. Mr. Bernier: Mr. Reid, I think if you read the statement I made in the Legislature a week ago the route you are suggesting is the route we are going to take with the Reed Paper company. No timber licence has been granted. The Reed Paper Company does not have the right to cut one stick, to cut one

road. If and when they do get a licence, they don't get title to the land; they don't control the land as some have left you with that feeling.

If it is approved somewhere down the road after public hearings and discussions, after all have had a look at the feasibility, the economics, the possibility of that going ahead, be it the complex or the forests as they relate to wildlife, recreational or native peoples, only then and only if the Environmental Assessment Board makes the recommendation will the licence be granted—with conditions. The structure, the thrust and direction you are suggesting is the one we are following with the Reed Paper proposal.

Granted, when the Kimberly-Clark proposal was before us, we didn't have The Environmental Assessment Act in place. We didn't have the structure there to look at that proposal in the same way we do today. We are using the tools we have at hand to make sure the public is made fully aware, that all those segments of society are informed and know what the impact will be, and to assess if it is in the public interest to proceed or not to proceed.

Mr. Reid: I don't want to monopolize what little time we have left but I would like one more question, if I may. That is, does the ministry have any programme or policy in regard to providing timber limits particularly to small sawmill operators and Indian bands who wish to get either into the business—particularly in regard to Indian bands—or sawmills which are already operating so they can have enough species to get into the business or to operate existing sawmills. It is a real problem and I am sure the minister is as aware of it as I am.

Hon. Mr. Bernier: I am very much aware of that. There are many examples throughout the north of our thrust in that particular direction. I think you can go first to the Crown management units where there are large areas adjacent to built-up communities held by the Crown for that specific purpose, to help these small entrepreneurs. There is a need to encourage and to keep those small entrepreneurs in the forest industry operating. If you believe in that philosophy, and we do, then we go in that particular direction.

[5:30]

Around every community, be it Fort Frances, Kenora, Minaki or Sioux Lookout, you name it, there are management units which we manage ourselves—the ministry

manages—and we grant small cutting licences for those small entrepreneurs.

In addition to this, we work very closely with the Indian reserves, and I can think of several. The Gull Bay band is an excellent one where we take the lead and work a third-party agreement with the licensee. Boise Cascade has worked very closely with us with the Whitedog and Grassy Narrows reserves. We carved out of their licence timber that we could give to the native peoples so they could become involved and could be entrepreneurs under their own right. We'll do the same thing in the Fort Hope area so that they too can be part and parcel of that good harvesting exercise they want to be part of. Those steps are all built in and we're very cognizant about the need of the individual.

Mr. Reid: Is it not a fact that once a company has been granted a licence in a Crown management unit that it depends on the company's goodwill as to whether they will allow third parties such as Indian bands or the small sawmill operators to have what they cut?

Hon. Mr. Bernier: We usually negotiate with them. I know of no situation where the company has really said: "There is no way you are coming in here." They've all worked it out with them. They may ask for the first right of refusal of the wood that is being cut for their operation and if they can't meet that price then the individual can sell somewhere else. But there are several, Shoal Lake logging operations, Rat Portage, Gull Bay and Indian affairs. There's a long list of involvement by the native peoples in the wood-cutting operations, in addition to their reserves where they have complete and total right to wood.

Mr. Reid: Do I take it then that the Ministry of Natural Resources will expedite these third-party agreements with the companies, if there are sawmills that are hurting for lack of wood or Indian bands that can't procure wood?

Hon. Mr. Bernier: Oh, there's no question. We do that and we intend to continue to do that.

Mr. Chairman: Mr. Stokes.

Mr. Stokes: I'll defer to Mr. Lewis.

Mr. Chairman: Mr. Lewis.

Mr. Lewis: Mr. Chairman, I want to ask, if I can, for some specific information and

whether it's available on a lot of the timber licence tracts. Just before I do, I'd like to respond to some of the amiable abuse and infamy which have been hurled in our direction—and I guess mine in particular—by Tories and Liberals conjointly, which pleases me because it's nice when you're together on it.

I think that the suggestion of the NDP ridings, etc., which I gather Mr. Reid implied or said explicitly, is really a bit silly. I want the chairman and the minister to know that our opposition to the Reed project occurs regardless. Our opposition to the Pickering International Airport had significant implications for NDP ridings. It didn't stop our opposition. There are the passionate feelings of Sudbury members about Inco and Falconbridge. What they have said publicly, I suppose in a way, causes the minister restlessness from time to time. Our feelings about those companies have never stopped us just because they happen to be NDP ridings. We believe very strongly that the whole Reed proposition is wrong. I know what the minister has said about jobs, etc. I'll speak to that in a minute.

The minister and Mr. Reid, the member for Rainy River, to distinguish him from Reed Paper—

Mr. Reid: I'm not a stockholder either.

Mr. Lewis: —were at the St. Lawrence Centre the other night. We shared that platform together. It makes utterly no sense in the world on any grounds that it's possible to divine, when your entire forest industry is presently in such a critical state in terms of reforestation, in terms of the government reports and in terms of the projected figures which have just been trotted out here this afternoon, even to contemplate this transaction with Reed Paper.

Mr. Haggerty: The same problem existed with the Kimberly-Clark people too.

Mr. Yakabuski: The Kimberly-Clark operation under the same conditions—

Mr. Lewis: I must say that not only is there a difference in the cutting—

Mr. Yakabuski: Same terms of reference.

Mr. Lewis: —there is also a qualitative difference between what we talked of in Kimberly-Clark and what we are talking of in Reed. In Reed we are talking of the last remaining forest land in the province of Ontario. When you've got so many internal reports that are critical of government policy,

when you've got so many Ministry of Natural Resources foresters who are critical of government policy and Reed in particular, and when you know that the timber licences we have already granted are not well managed, then the whole Reed scheme is absurd and no one retreats from that.

That's the simple proposition. I want to extend that. There is this curious fixation in the Ministry of Natural Resources—unlike any other ministry of the government—that where you've got resources, you've got to exploit them. There is this curious fixation on the part of Ministry of Natural Resources that the way you build the economy of northern Ontario is on unending, unrelenting resource exploitation. You've done it—you've done it for decades. You've done it for all the years the Tories are in power, and regularly you have a Cobalt, you have a Geraldton, you have an Ignace, you have an Elliot Lake; with a regular rhythm you have little towns which are forced to close down or are forced into bankruptcy because the resource is gone and nothing remains behind.

Mr. Wildman: Blind River.

Mr. Lewis: Blind River is an absolutely classic and almost pathetic example of the absurdity of resource exploitation of the kind that you have promoted as a government. As I understood Design for Development, both northwest and northeast, what Design for Development said was, "Build an economic infrastructure for those communities. Don't rely solely on resource exploitation; understand that there has to be something attached to it. There has to be manufacturing industry. There has to be greater tourist industry. There has to be some service industry. You've got to give to northern Ontario an economic infrastructure which other parts of this province have, and if you only rely on resource exploitation, you will ravage it entirely and leave very little behind."

God knows you've done little enough for northern Ontario as it is, despite the untold wealth that has been taken out. Nobody objects to jobs in northern Ontario. That's why you've got so many New Democratic Party members from northern Ontario. That's been our bandwagon for a number of years. But what we do object to as a party is that you see jobs in only one context—resource exploitation. If the minister will forgive me, when he sees a tree, he has an irresistible twitch to cut it down. That's really what's involved. When you see ore in the ground, you have an irresistible urge to mine it.

That's not what the natural resource sector is about. Natural resource sector has as much a quality of preserving about it as it does of exploiting, and you've got to start, we submit to you, in the area of renewable resources like the forest industry to recognize the need to preserve, to reforest, to regenerate and to build an economic infrastructure. The crazy business associated with Reed is that you are right back to the same old pattern, except you've finally driven your policy to the outer limits. Now you are at the final extremes, the last bit of forest land in Ontario.

What are you going to do when you clear cut that boreal forest? Where are you going to turn then? Because you are not going to have an adequate regenerated forest, as all of your experts are now telling you.

You are asking us to endorse a proposition which takes to the ultimate absurdity government policy leaving no forest industry at all at the end of it in the year 2020 or the year 2050 because you failed to handle the present timber licences appropriately.

Don't talk to us about Reed until you've done everything there is to do about proper forest management and sustained yield. In the absence of that, Reed is the extravagance of corporate government imagination to the destruction of the northern environment. That doesn't make sense to us. And it has very little to do with the propositions which have been trotted out. It's really how are you going to develop your resources in northern Ontario in a civilized way, and Reed would stand as an epitaph, not as a glorious experiment; not as things now occur.

The minister knows as well as everybody in this room knows that you had your first royal commission on the pulp and paper industry in 1924 in Ontario. I think I'm right on the date. You were told then that the regeneration and reforestation was inadequate.

Then you had the Kennedy commission in 1947 and Kennedy's memorable comment was that the government's pulp and paper policy amounted to cut out and get out. Then you had your task force in 1954; and then you had your task force in 1967; and then you had the Ontario Economic Council report in 1970. Then you had your report of 1972; then you had your timber revenue report of 1974; and now you've got Armson in 1976.

From 1924 to 1976—over 50 years—you've had at least eight major studies of the forest industry in Ontario all of which have said: "You are mismanaging the forests. You are not regenerating and we're going to be in

serious trouble in 50 or 60 years from now." That was earlier. Now we'll be in serious trouble in 15 or 20 years from now.

Do you want any group of legislators seriously to endorse your proposals for Reed Paper when you've mismanaged the entire forest resource for over 50 years? All you've got in return for your mismanagement is non-confidence, a lack of trust. Don't ask us for any support for that kind of proposition. If you want to create jobs in the north, you build an economic infrastructure in the communities which already exist before you start tampering with the last precious stand of timber this province has.

When you've built an economic infrastructure and when you've got a managed forest and a sustained yield then we can talk about the next step but not until then. When we talk about the next step, for God's sake let's talk about it intelligently and that means a much different process from the process which the government entered into with Reed.

That whole thing was conceived in such suspicion and executed with such arrogance that it inspires non-confidence everywhere, Mr. Minister. That's why the Premier (Mr. Davis) had to back down and that's why on Friday morning you had to send a special letter from the Premier to Treaty 9 Indians, just before the press conference began, to assure them of government intentions.

I ask a question: Why was it not possible when the minister made his statement on Tuesday last for him to indicate that you were going to provide funding support to Treaty 9 Indians before the Environmental Assessment Board? I'll tell you why not—because it didn't occur to anybody until the furor had broken. This whole pattern of development was conceived in a way which inspires suspicion on all fronts.

As far as I'm concerned, the Reed Paper business has two aspects and it will continue to surface regularly for the next several months. The first is whether it should proceed at all and in the present context the whole idea is absurd.

The second aspect of it is the hearing process and you've got so much lack of trust in your hearing process, Mr. Minister, that I don't know whether you're ever going to get Treaty 9 to co-operate. Without Treaty 9, you've got no business holding an environmental assessment because you can't have adequate hearings without native peoples' participation.

Somehow you're going to have to accommodate their position and if they demand ultimately a royal commission of inquiry then it is necessary for this government to be reasonable enough to submit to that. I put that to you as something you may have to contemplate seriously a short way down the road.

The Reed people have had it pretty easy. They polluted English-Wabigoon and they paid no money in compensation. They've received \$1.5 million in DREE grants from the federal government. They are now negotiating for the single largest licensed tract in northwestern Ontario. How come you have such feeling and compassion and generosity for this private corporation and you can't summon the same instincts where Treaty 9 is concerned?

[5:45]

There's a really distorted balance of values inherent in that and it speaks to the whole view of forest policy and the exploitation of the resources of northern Ontario. We are not at one with you on that. We are profoundly opposed to the way you have approached the whole transaction, and as far as I'm concerned the modest retreats which have occurred, while they have some significance, like the appointment of an independent chairman, may in themselves still not be enough to satisfy the native communities of Treaty 9.

I don't want to dissemble about it. We intend to use Reed as a symbol all over Ontario and I think you know that. We intend to talk about land resources from now until the election campaign in no uncertain terms. We intend to go through those licensed areas, tract by tract and document the failure of government policy and neglect of our forest. We intend to show as vividly for the north as agricultural land showed for the south, where you have failed as a government. Because it's your failure. The corporations; at least you know all they are interested in is the rate of return, all they want is profit. That's their right in this society. But it's your job, the government's job particularly—is it since the 1960s that it's been—

Mr. Stokes: 1962.

Mr. Lewis: —1962—our requirement to provide for the reforestation and the reseeded. It's the failure of government that we're dealing with here in a massive way, rather than the failure of the companies. That leads me to a series of questions and I know you'll want to comment more widely on the

socialist menace and on northern Ontario and on the question of jobs and all the bogeys and I want to invite it from you. I want to invite you to cross northern Ontario saying these kinds of things, because the northerners know the fallacies of resource exploitation. Believe me, the northerners know.

Hon. Mr. Bernier: Talk to your northern members.

Mr. Lewis: I've talked to my northern members.

Hon. Mr. Bernier: You are away off base. I'm embarrassed for you.

Mr. Lewis: You are, eh? Well, I'm telling you that the northerners know about resource exploitation.

Hon. Mr. Bernier: You should have been here 20 minutes ago.

Mr. Lewis: I know. Jack Stokes was also at the meeting at the St. Lawrence Centre and heard what was said. What Jack Stokes is saying is, you get your house in order before you even contemplate anything else, and that's what we've been saying.

Let me find out from you what information can we have as opposition members on the management plans which you've entered into for each of the timber licence areas? Can you table all of the management plans for the Legislature? Can you table all the operating plans? Will you give us the statistical data on the allowable cut, the actual cut? Can you give us the statistical data on the amount of reforestation? Can you give us the statistical data on the amount of reforestation that has failed, timber licence by timber licence?

We phoned Mr. Drysdale of the timber branch and are attempting now—and he was perfectly co-operative—to get some of this information, except apparently the management plans offered a problem. I think we've reached the point in northern resources of having to find out what these management plans are that you entered into with each of these private companies and what the specific details are of the operating plan designed to implement them. So that's a whole host of questions. In other words we are asking for all that. We're asking for that for every timber tract in the province, and I'll expect that maybe you can answer it.

I want to ask something else, since you're so confident about your forest resource industry, are you prepared to allow to come before

this committee the Ministry of Natural Resources foresters involved in supervising the 13 largest pulp and paper operations, or the 13 largest timber licensed limits in the province, the seven big integrated operations? Are you prepared to have those Ministry of Natural Resources forester people like Cary come before this committee and answer questions on what is occurring specifically within their licensed limits?

Everybody knows you're going to have cutting and pulp and paper processing and all of the mills you've got. Everybody knows there's an advantage to the bedevilment of Kimberly-Clark and all of the jobs that are provided. But you've got to have more than that. You've got to have adequate forest management accompanying that, or we'll have virtually nothing left 50 years down the road, and that's what we're talking to you about.

Can we have all of the information I've asked for? Can we have the management plans; the operating plans; the allowable cut; the actual cut; the reforestation; the reforestation which has worked; that which has failed? Can we have from the Ministry of Natural Resources foresters, reports on their individual timber licence areas of the kind which Cary provided for Dryden? Can we have all that material for analysis and publication so we know where we stand?

Can you answer those questions for me before I go further?

Hon. Mr. Bernier: Are you finished, Mr. Lewis?

Mr. Lewis: No, I'm not. I want answers to those questions before I —

Hon. Mr. Bernier: I think before you get the answers to those questions, I'd like to make a few comments.

Mr. Lewis: I'm not finished. I'd like to ask you—I'd like to interrupt—

Hon. Mr. Bernier: If you want to continue, I'll answer you in total then.

Mr. Lewis: I'd like to interrupt myself and ask you whether you will provide that material for us?

Hon. Mr. Bernier: I think before I get into that there are some questions I want to put on the record—some of your accusations and the nonsensical remarks you've been making.

Mr. Lewis: What accusations?

Hon. Mr. Bernier: The nonsensical remarks that you have made.

Mr. Lewis: Go ahead. We'll pursue this, I'm sure.

Hon. Mr. Bernier: I think we have to. To make a few remarks, I have to admit that I'm most embarrassed for the member's northern members because before he arrived they indicated to this committee that the leader of their particular party was not opposed to the Reed Paper company operation at all. Now we find that the leader is coming in and saying he is diametrically opposed to the operation, to anything we do up in that particular area which should be preserved as a wilderness.

Mr. Stokes: That's not what he said.

Hon. Mr. Bernier: The nonsensical approach to it, really—such words as "intelligent exploitation"—

Mr. Lewis: I don't mind that because it clearly is not what I said. It's all in Hansard.

Mr. Chairman: Order.

Mr. Lewis: I said the operation is absurd. The transaction you're contemplating is absurd.

Mr. Chairman: Order, please.

Hon. Mr. Bernier: I get so annoyed at the poetic language the Leader of the Opposition uses. The member for Scarborough West makes a trip to northern Ontario every four years—maybe every three years when there's a sign of an election. I don't think he's gone into a forest himself. He wouldn't know a jackpine from a balsam and doesn't know a saw mill from a pulp mill. To come in here and use glowing poetic language, these tearjerking kinds of comments—it really doesn't make sense.

Mr. Lewis: I didn't see any tears, nor was it—

Hon. Mr. Bernier: I'm going to tell you right now, sir, that the speech you made today will come back to haunt you.

Mr. Lewis: Will it?

Hon. Mr. Bernier: It will be spread all across northern Ontario—

Mr. Lewis: You're welcome to do that, my friend.

Hon. Mr. Bernier: —and there's a wind or a storm blowing in northern Ontario.

Mr. Lewis: I'm a southern member; you're a northern cabinet minister. What have you done for your party?

Hon. Mr. Bernier: There's a storm blowing in northern Ontario which you wouldn't believe. Check with your northern members.

Mr. Chairman: Order.

Hon. Mr. Bernier: Believe the Jack Stokes —let's go back, I've got the floor. I didn't interrupt you.

Mr. Chairman: Let the minister say what he has to say, please.

Mr. Lewis: All right.

Hon. Mr. Bernier: On May 10, 1971, this is what the member for Lake Nipigon said, "What we need is maximum utilization of unused allowable cut in northern Ontario."

He said that on May 10.

Mr. Lewis: Yes; so?

Hon. Mr. Bernier: What did he say in 1972?

Mr. Lewis: Reed Paper isn't part of the allowable cut, I might point out to you.

Hon. Mr. Bernier: He said, "We need to manage our resources and allocate them on the basis of need for the maximum utilization," which we're trying to do.

Mr. Lewis: With Reed?

Hon. Mr. Bernier: Another one, "There is a need for the rationalization of timber licences held at the present time."

Mr. Lewis: That's right.

Hon. Mr. Bernier: He said, "To allocate unused licence areas to others."

Mr. Lewis: That's exactly right. You follow his policy and you'll be all right.

Hon. Mr. Bernier: He said, "The little towns need the economic benefit which new mills will provide." The member for Lake Nipigon said that on November 2, 1973.

Mr. Lewis: What's wrong with that? We agree with him.

Hon. Mr. Bernier: On October 1, 1973: "Northern Ontario should get more economic benefit from the northern resources."

Mr. Lewis: I'm glad you read him.

Hon. Mr. Bernier: Just recently, on November 27, 1975, he even suggested that

NORT funds be used to assist the wood industry to get into areas much farther away from the mill than at the present time.

Mr. Lewis: Yes.

Hon. Mr. Bernier: That man knows what he's talking about. He knows what he's talking about because he's a northerner.

Mr. Lewis: Where are we differing?

Hon. Mr. Bernier: He lives up there. His family is up there. His future is there. Not yours. You're political all the way and that is all you're working at. You're working the north against the south for political reasons.

Mr. Lewis: Nonsense. That's utter nonsense.

Hon. Mr. Bernier: The member for Rainy River brought it out and laid it on the line.

Mr. Lewis: The reason the north has turned against the government is because of your crass and crude politics. That's why it's turned against the government.

Hon. Mr. Bernier: You're playing on the emotions of southern Ontario. There are more seats down here. It's all emotion down here.

Mr. Lewis: No, not at all. You have no interest in the north.

Hon. Mr. Bernier: You have no beautiful trees in your town.

Mr. Lewis: You've exploited the north and they've turned on you.

Hon. Mr. Bernier: Exploited the north!

Mr. Lewis: You feel like a lover piqued and you don't know how to handle it; so you handle it with arguments ad hominem and abuse.

Hon. Mr. Bernier: I'm very proud of what we've done in the Ministry of Natural Resources.

Mr. Lewis: You speak to the policy.

Mr. Stokes: Let me remind you—

Mr. Chairman: Let the minister continue, please.

Mr. Stokes: —that you're the second Minister of Natural Resources who persists in calling birch and poplar weeds.

Mr. Lewis: That's right.

Hon. Mr. Bernier: I didn't call them weeds.

Mr. Lewis: You don't know what you're talking about.

Mr. Stokes: You're on record this afternoon.

Hon. Mr. Bernier: It was referred to as weeds.

Mr. Stokes: You're on record this afternoon.

Mr. Lewis: You don't know the difference between bark and a twig and it's time you did, because you're the Minister of Natural Resources.

Mr. Chairman: Order.

Mr. Lewis: It's just nonsense. Look at what you've done to the north. The entire northern community is repudiating you, and I'll tell you why—because you have played them off for the efforts at political advantage in the south. You use the north as a resource basin. You use it not as a building economy based on the resources; you exploit the resources and then you pull out. That's why the north is turning against you. Don't be so self-satisfied about it. Look at the seats. Do you know that even in the Gallup poll—

Interruption.

Mr. Lewis: I think I'm being harassed.

Mr. Chairman: Order. Order, please.

Mr. Lewis: You're right.

Mr. Chairman: Have you completed with your remarks, Mr. Minister?

Mr. Lewis: I had to throw this in, Mr. Chairman—

Hon. Mr. Bernier: Okay, go on with it.

Mr. Lewis: Even in the Gallup poll, which was published a month ago, the breakdown of the regional distribution of that vote for northern Ontario—

Mr. Haggerty: Mr. Chairman, on a point of order.

Mr. Lewis: —was 38 per cent for the—

Mr. Chairman: The member has a point of order.

Mr. Haggerty: I've heard about gentlemen's agreements for the last three or four days regarding these particular estimates—

Mr. Lewis: Oh, dear!

Mr. Haggerty: —and I have a note here that says the vote would be called at 6 o'clock. That was the agreement over there with the House leader the other day.

Some hon. members: No, no.

Mr. Haggerty: I hope that's going to be done.

Mr. Lewis: If I get to say this one thing, I will subside and you can take off. Even in the Gallup poll of a month ago— just an interesting little footnote—the New Democratic Party was running at 38 per cent in the north and the Progressive Conservative Party was running at 26 per cent in the north—one of your lowest ebbs in politics in northern Ontario. I'll tell you why that's true. It's because a systematic resource exploitation of the north without building an economy on top of those resources alienates northerners. You can't smugly deal with me as the member for Scarborough West—who incidentally wanders into northern Ontario with great regularity—just because I'm a suburbanite.

Hon. Mr. Bernier: Come back more often, please. You're doing us a great disservice.

Mr. Lewis: I'm just throwing that out to you as a caution. If you want to throw away the entire north—

Mr. Maack: You've done it today.

Mr. Lewis: —that's your decision. But don't do it with resources.

Interjections.

Mr. Chairman: Order, please.

Mr. Lewis: Now what about the questions I asked you?

Hon. Mr. Bernier: I'm prepared to consider that, yes.

Mr. Lewis: No, no, just a second. What do you mean you're prepared to consider that?

Hon. Mr. Bernier: I'd like to look at the complexity and the size of the operation and pulling all that together. There are certain things I think we can give you right now, but there may be a tremendous amount of staff work and I'd like to discuss it with my staff just to see how much it would entail. But we're prepared to give you as much of the information as we possibly can within the limitation of our staff.

Mr. Lewis: All right. We appreciate that. We've had so many foresters write us in the last week, commending the New Democratic Party for its position on Reed and offering an analysis of your data, that I'm now prepared to ask for the data and ask qualified people to look at it, including people from within your ministry.

Hon. Mr. Bernier: Fine.

Mr. Lewis: Well, that's first-rate. You have a list of what we want. I'll come back to you in the House before question period if we don't get it. Can we some time bring the Ministry of Natural Resources foresters before a committee of the Legislature? The people who are responsible?

Hon. Mr. Bernier: We have some 200 foresters in the ministry—

Mr. Lewis: Well, let us choose 15. You must have confidence in all of them.

Mr. Chairman: Order, please.

Hon. Mr. Bernier: I don't take any exception to them expressing their—

Interjections.

Mr. Lewis: I've heard from 15; I assume the other 185 are on their way.

Mr. Chairman: Order, please.

Mr. Lewis: How about letting us name 15 at random to bring before the committee?

Hon. Mr. Bernier: I have some excellent staff to whom they report, and they can reply for them. I think that would be doing a disservice to them.

Mr. Lewis: I think you're afraid to have them come before the committee.

Hon. Mr. Bernier: No, I'm not. I think it's healthy that you should hear from my foresters, because they all have an opinion. They're writing to you now—

Mr. Lewis: Well, why can't the Legislature hear from them? What about the committee?

Hon. Mr. Bernier: They're hearing from them now.

Mr. Lewis: No, no. These people are excellent people, but let's hear from the foresters.

Hon. Mr. Bernier: No, let's be reasonable.

Mr. Maeck: You're telling us what they said.

Mr. Lewis: I haven't told you a word yet. That'll come.

Mr. Ruston: We want to hear from them.

Hon. Mr. Bernier: Let's be reasonable.

Mr. Lewis: You don't want them to come, eh?

Hon. Mr. Bernier: Well, I don't think it is proper.

Mr. Lewis: Why isn't it proper? They're staff people in the ministry; we're a committee of the Legislature.

Hon. Mr. Bernier: We have staff people here; they're the senior people—

Mr. Lewis: Why are you muzzling your foresters, if I can put it another way?

Mr. Chairman: Order, please.

Hon. Mr. Bernier: I said it was a healthy situation that they should write to you and explain their situation—

Mr. Lewis: It's very nice. I like their letters, we'll show them your material, but why can't they come before a committee of the Legislature and talk as Cary talked about the Dryden Pulp and Paper limits?

[6:00]

Hon. Mr. Bernier: We would have to bring the 200 here.

Mr. Lewis: I am willing to sit for 200.

Hon. Mr. Bernier: Come on, now.

Mr. Lewis: I was going to make it easier for you, by using only 15.

Hon. Mr. Bernier: Really.

Mr. Lewis: I have much to say. Do you want to adjourn?

Mr. Laughren: Mr. Chairman, considering the hours of sitting of the committee, and because the Ministry of Labour estimates were to come before this committee tomorrow afternoon, would the committee be prepared to finish off these estimates tomorrow morning and proceed in a regular fashion with the Labour estimates tomorrow afternoon?

Mr. Reid: Mr. Chairman, I would like to say something about that. I had a great deal more to say, and I gave up my time so that my friends and associates—some of whom I

may have lost today—could have some time. We are prepared to come back tomorrow, as long as there is some agreement as to the way the time is to be divided amongst us.

Mr. Lewis: Were we trying to finish by noon tomorrow?

Mr. Reid: We were supposed to finish by 6 tonight.

Mr. Laughren: But if we sat from 10 to 12, would that be sufficient?

Mr. Chairman: Would the committee be willing to sit from 10 to 12—

Mr. Lewis: And end it there?

Mr. Chairman: —and agree we would be finished at 12?

Mr. Bain: And start with Labour in the afternoon?

Mr. Chairman: The committee will meet again at 10 o'clock in the morning.

Mr. Bain: Mr. Chairman, in order to avoid any difficulty tomorrow morning, perhaps we should agree on some sort of division of time now. Or do you want to leave it to a meeting—

Mr. Reid: We can work that out.

Mr. Bain: We can work that out? Okay.

The committee adjourned at 6:02 p.m.

CONTENTS

Wednesday, November 3, 1976

Resource products programme.....	S-2629
Mineral management	S-2629
Forest management	S-2668
Adjournment	S-2685

SPEAKERS IN THIS ISSUE

Bain, R. (Timiskaming NDP)
 Bernier, Hon. L.; Minister of Natural Resources (Kenora PC)
 Cunningham, E. (Wentworth North L.)
 Gaunt, M. (Huron-Bruce L.)
 Haggerty, R. (Erie L.)
 Johnson, J. (Wellington-Dufferin-Peel PC)
 Laughren, F. (Nickel Belt NDP)
 Lewis, S.; Leader of the Opposition (Scarborough West NDP)
 Maeck, L. (Parry Sound PC)
 McClellan, R. (Bellwoods NDP)
 McNeil, R. K.; Chairman (Elgin PC)
 Miller, G. I. (Haldimand-Norfolk L.)
 Reid, T. P. (Rainy River L.)
 Ruston, R. F. (Essex North L.)
 Sargent, E. (Grey-Bruce L.)
 Stokes, J. E. (Lake Nipigon NDP)
 Wildman, B. (Algoma NDP)
 Yakabuski, P. J. (Renfrew South PC)

Ministry of Natural Resources officials taking part:

Herridge, A. J., Assistant Deputy Minister, Resources and Recreation
 Hurd, D. B., Acting Head, Petroleum Resources Section
 Jewett G. A., Executive Director Division of Mines
 Lockwood, J. W., Executive Director, Division of Forests
 McCrodan, P. E., Director, Mines Engineering Branch
 Pye Dr. E. G., Director, Geological Branch
 Reynolds, Dr. J. K., Deputy Minister



Government
Publications

Legislature of Ontario Debates

SUPPLY COMMITTEE—2

ESTIMATES, MINISTRY OF
THE ATTORNEY GENERAL

OFFICIAL REPORT — DAILY EDITION

Third Session of the 30th Parliament

Wednesday, November 3, 1976

Afternoon Session

Speaker: Honourable Russell Daniel Rowe

Clerk: Roderick Lewis, QC

THE QUEEN'S PRINTER
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CONTENTS

A list of the speakers taking part in the debates in this issue of Hansard appears, in alphabetical order, at the back of this issue.

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LEGISLATURE OF ONTARIO

SUPPLY COMMITTEE

WEDNESDAY, NOVEMBER 3, 1976

The committee resumed at 2:10 p.m.

ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL (continued)

Mr. Chairman: The committee will come to order.

On vote 1202, administrative services programme; item 5, programme planning and evaluation; item 6, systems development:

Ms. Sandeman: I would like to continue briefly on the topic we were considering before the lunch break, the problems that visible minorities have in our justice system.

Mr. Minister, you mentioned you spoke at the conference that the Urban Alliance sponsored a couple of weeks ago. One of the major concerns that I heard being expressed at that conference, by black people, by Jamaicans, by Pakistanis, by Indians, was their relationships with and perceptions of the police function. I know that is not directly your function, but I did understand you to say at the dinner that you endorsed the commitment that was made by Judge Bick to accept a proposal made during the day, that police community relations committees should be set up with input from the communities to try to bridge some of the gaps that are all too obvious in race relationships.

Hon. Mr. McMurtry: That is correct.

Ms. Sandeman: Could you perhaps report to the committee on the commitment you made, what you understood yourself to be committing yourself to and if there has been any movement on that already?

Hon. Mr. McMurtry: I welcomed the statement or commitment by Judge Bick that these community liaisons groups would be set up, and I assume from that the Urban Alliance would be one of the groups to assist in the establishment of these community groups. I haven't had any reports since then as to how they have proceeded, but I gather from brief conversations I have had with senior members

of the police department in relation to other matters, that this was supposed to be proceeding. Where it stands at this point in time, I don't know. What with the opening of the Legislature last week and dealing with estimates and some rather major legislation, I must admit I haven't had the opportunity of checking on the progress.

So far as any personal commitment is concerned, if there is some way in which we can assist—certainly if there is any reluctance on the part of anyone in the police department to move expeditiously—I think the moral persuasiveness of our office can sometimes be of assistance. But I was basically endorsing the commitment that had been made on behalf of Metropolitan Toronto Police Department.

Ms. Sandeman: Perhaps, as you say, the moral persuasiveness of your office is something that is helpful in some of these situations. I just wondered if you had committed to writing your feeling about it or whether the statement you made at the dinner and informal contacts with people since then was the way it was continuing.

Hon. Mr. McMurtry: Yes. It never occurred to me that it would be necessary to reduce anything to writing at that stage. No one has suggested since that time that the commitment that was made would not be followed through. Maybe you've heard something I haven't.

Ms. Sandeman: No, and I am not suggesting that anybody has been trying to renege on the agreement. But sometimes these commitments are made in the enthusiasm of a public meeting when the problem is at the top of everybody's mind, and then they get pushed down the list of priorities in the reality of going back to the office the next morning. I would hate to see that happen, because it seemed like a useful suggestion and a genuine commitment on the part of everybody who was there to do something.

Hon. Mr. McMurtry: In view of the attention that was given to the suggestion, firstly, and then the commitment, it's difficult for me

to imagine how the police department could not follow through. It's certainly something we will keep our eyes on.

[2:15]

Ms. Sandeman: The question is the time-frame, I guess.

The other thing that I wanted to mention very briefly was the perennial problem that came up partly, I think, in the discussion of the Legal Aid budget. The problem faced by native people in the justice system was discussed only very briefly at the Urban Alliance conference. I felt a great deal of uneasiness during the daytime proceedings of that conference that so little attention was being given to the native population and their experience in the justice system.

One of the panelists, and I have forgotten which one, mentioned that he had done a research project assessing people's perception of the discrimination they faced and discrimination faced by other groups, the interesting result he found was that most of the visible minority communities, the black and East Indian populations, felt that although they faced obvious problems of discrimination in Toronto that their perception was that the greatest discrimination was felt not by them but by the native population. That was an interesting sidelight on the way people see the problem.

Perhaps we could come in some of the other votes to what is happening to the native court worker programmes to help native people in their confrontations with the courts. I wonder if your department has given any feed-in to the interministerial thinking that may be going on as to why it continues to be true that the percentage of native people in our jails is so much higher than the percentage of native people in the population. That's a problem that Corrections has to deal with after the fact but which must have something to do with the court system before the fact, and of course the police system, and then going back into community perceptions of what the problems are.

Hon. Mr. McMurtry: Just interjecting here, I think we can come to that when we deal with that item. I think it has most to do with the degree of alienation in the community. I think that is responsible for it, not the courts. I have represented a number of native people in the Metropolitan Toronto area who have been in serious difficulty over the years. When a group feels so alien in the community, so alienated from the rest of the community, the likelihood of criminal conduct is

obviously that much greater. I just make that observation in passing.

Ms. Sandeman: Yes, there are two things that can be happening. One is that there is more criminal conduct by the native groups. Secondly there is no more criminal conduct than you would statistically expect from any group but that for some reason the sanctions of the justice system come down more heavily on that group. I don't think we should too easily assume that alienation and so on produce more criminals among the native population. Certainly my experience of working as a probation officer on the reserve was that the perceptions of the police and the justice system and the expectations were different for the native people and that we were apt to invoke sanctions more readily for those people.

Hon. Mr. McMurtry: One never makes any assumptions in the justice system.

Ms. Sandeman: I thought I would just appreciate your making an assumption.

Hon. Mr. McMurtry: Easily, the assumptions from day to day are often proved wrong the next day. We don't. But as I say, I think we could talk about the court worker programme later, I guess, under which heading?

Mr. Callaghan: Vote 1206.

Hon. Mr. McMurtry: Vote 1206.

Ms. Sandeman: Fine. I think we should leave that.

Mrs. Campbell: I just have one or two observations. First, may I say that I took the noon opportunity to speak to my leader. As I expected, he would welcome the opportunity to join with the leaders of the other parties in this House and to accommodate as best he can to any given date. There were two things that I did think in fairness I should mention. The Attorney General spoke of the responsibility of the media. I think there is something that has to be done in this area, whether the Attorney General is the one, or who is, I don't know. But I'd like to give two examples.

One involves Mr. Beatty himself. I can recall his coming to city council, asking for the right to speak in Allan Gardens, and at that point one had to have permission. I can honestly say that there wasn't a member of that city council who wasn't just nauseated by this person and we refused the permission. What happened, of course, was that he used the facilities of the procedures and appeared once a week before the board of control, re-

newing his request, and he had full television coverage and full press coverage and he was becoming a martyr. Some of us felt the only thing we could usefully do at that point was to change our vote, to give him that permission in the hope that he would transgress, as indeed he did, and that he would be eliminated from our active society for at least a period of time. But there was a case where the media was very responsible for a group of people who felt completely alienated, giving a permission that we didn't want to give.

Secondly, the press at one stage tried to make a great issue about a racial confrontation between the black community and the Portuguese in the Kensington area, and whipped the story up. When it came down to basic cases, I have to tell you never to underestimate the power of a woman, because it was a simple triangle situation where a girl had been going with a black boy and switched her affections to a Portuguese boy. So they beat each other up in some way off in a corner. But this was to be a great racial riot and everybody was there, including me. Surely there has to be a responsibility to try to make the media realize that just selling papers or time or whatever is not a good enough reason for this kind of activity in our society.

The third point I wanted to make was that we have talked about the courts and we've talked about the French project and we've talked about other things. But I wonder if we really understand that in a city such as Toronto there still are native peoples who do not find it easy to proceed in the courts in anything other than their own language. I took the opportunity of taking some lessons, but they were far too limited and I didn't have the time, so that at least I could address them as they came into the court from time to time, to try to make it a less alienated kind of society for them. But I don't think nearly enough attention is given to their feelings when they appear in a court and the fact that they feel, just on language alone in some cases, an alienation from the whole process. I would ask that you might, again, give some consideration to at least having someone in the courts, not just Millie Redman dragged in when the cases come up, but someone who is there to give some continuity to our native peoples so that they can understand what is happening to them.

Hon. Mr. McMurtry: With respect to the responsibility of the media, Mrs. Campbell, I agree with you, particularly with respect to the matter of reporting incidents as racial incidents when they just happen to be people

of a different background who happen to get into a confrontation—

Mrs. Campbell: Fighting over a girl.

Hon. Mr. McMurtry: —for the normal reasons. As a matter of fact, some weeks ago I wrote to the chairman of the Human Rights Commission and asked them to investigate this matter, with a view to perhaps making some contact with the publishers of the newspapers to discuss the problem. I think you and I and all of us here that are elected recognize the problem of doing this ourselves because any time we suggest to the press how they are going to cover a particular incident our motives are very suspect. But I was concerned about the extent to which some of these incidents were reported as racial incidents when I had information to the effect that race had nothing to do with it and I agree with you.

All this does is create much greater apprehension in the communities involved and a much more threatening attitude. There is no question but that there is a threatening attitude there and the Ontario Human Rights Commission is looking into the matter with a view to making the appropriate representations. We will hear more about our native courtworker programme later in relation to assisting native people in the courts.

Item 6 agreed to.

Vote 1202 agreed to.

On vote 1203, guardian and trustee services programme; item 1, Official Guardian:

Mrs. Campbell: I don't really want to be repetitive, but when I look at the estimates, and compare them with the actual and the estimates of previous years, I have a great sense of disappointment insofar as the Official Guardian is concerned. I am not going to rehash all that I said the other day, but I would like a response from the Attorney General. He gave us a great deal of hope when we met at the Clarke Institute, a hope of a great new look at this office. It doesn't seem to me that it is in any way reflected in the estimates as they are before us now. Is there some thought that there might be supplementary estimates here too or could the Attorney General tell us just how far he is prepared to go at this point in time in changing the philosophy of government to this office?

Hon. Mr. McMurtry: I don't have any particularly strong notions as to what the philosophy of the government, of which I am a member, is to this office, other than one

of support. Certainly, as in many other fields of justice, I personally would like to see a greater allocation of resources, and I have never hesitated to make my views known publicly or privately. What we were talking about in the Clarke Institute was, as you will recall, largely in relation to custody matters and the interest of children which had been often forgotten in the past and submerged in the conflict.

It having traditionally been assumed that the parents who were battling over custody really did have the interest, the welfare, of the children very much in mind, obviously we recognize, and there is recognition in the Official Guardian's office, that this often is not the case. Even if the parents think they have the children's best interests in mind, the nature of the conflict, of course, makes it otherwise. And so part of the process that the Official Guardian's office has been involved in is, partly at least, is one of educating the judiciary as to the need for the Official Guardian's services in this particular field. Right now, without some formal change in the rules of the court, the Official Guardian comes into court as a representative of the children when directed to by a trial judge.

[2:30]

My own feeling at this time—and as in many other areas I am prepared to be proven to be wrong—is that I don't believe that the representation of the children in this type of dispute should necessarily be automatic. As you know, the Official Guardian's office makes a report in relation to any child. But to make it an automatic requirement, in my view and from my experience in these matters, could in some cases create a divisive influence insofar as children vis-à-vis their parents are concerned.

The problem, I am sure you would agree, is one of great sensitivity, and rigid rules in relation to separate legal representation perhaps should be avoided. I stress the fact that this is a relatively recent development. It has occurred more within the past six months or so than ever before. We are looking at it closely, and again, unless there is wide acceptance among the judiciary that this is appropriate in many cases, it will be pretty difficult for the Official Guardian to provide effective representation. I am confident that the judiciary is accepting this and this programme will continue to develop.

Whether it should have been developed earlier or not, I am not in a position to make any judgement. I can just reflect on what has happened during my relatively short tenure

in my present position. There are a great many areas of my own ministry that I would be the first one to say I would like to find out more about—if I'm permitted to—in the months ahead.

Mrs. Campbell: The problem is, as you very well know, there have been two sorts of approaches for children. In divorce actions usually, up until recently, the children had been parcelled out with the furniture—notwithstanding the kinds of reports the Official Guardian's office has produced.

Secondly, in other family matters the child becomes a guided missile between two warring parents, and there is no representation of that child in these cases. Absolutely none. There isn't even duty counsel for the child. The child is not regarded as a significant party. For example, on deserted wives and children's maintenance cases, it's true that they have representation in the juvenile section but there really isn't representation in the process of child welfare.

It's true again that the Children's Aid is inclined to take the position that that body speaks on behalf of the child. But I think it is fair to say that at least in the past, the Children's Aid Society got caught up in the advocacy role and, as a rule, was not really playing the role. It was almost an adversary role to a parent, without the objective overview of the child. I had hoped that when you announced the change—and we all know the OG's office for years was purely administrative, really. It had no other function. It carried out the policies of government and I gave you a case the other day which shocked me more than anything I've ever seen. But it hasn't played a real ombudsman's type of role for children and I think it's long overdue. I don't know how judges would look at the situation in the higher courts but I understand from what you say that they are tending more and more to call upon the Official Guardian.

Whatever we do, if we don't recognize the fact that the child is, in effect, a party—this is a living human being with very real interests in what is happening to its family and what is happening to the child itself.

Hon. Mr. McMurtry: For point of clarification, Mrs. Campbell, from our own conversations I have gleaned some information with respect to your views of the family court judiciary generally. I'd like some clarification on this point, from what you're saying, this rather harsh indictment of our family court judges to suggest—

Mrs. Campbell: In no way.

Hon. Mr. McMurtry: I didn't think you intended that.

Mrs. Campbell: In no way.

Hon. Mr. McMurtry: That's why I tried to clarify it, because it's been my experience that they have been very sensitive to the rights of children in proceedings before them. As I was going to say, in a moment, they are making more and more use of duty counsel and the Official Guardian's office in that respect because, ultimately, as you well know, the responsibility to ensure that the rights of the children are not only adequately represented but are being protected in the broadest sense falls to the men and women who are manning our family court benches.

Mrs. Campbell: It seems to me that it shouldn't be left at—There is no criticism of these judges because I've never seen, in my experience—in any of the places where I was, Toronto, Kingston, and Ottawa—I have never met more dedicated people, or more concerned people. But I really don't think that judges themselves can be both the advocate and the judge. That is a role which concerns me and there is no representation.

Again as I've said, ad nauseam—and I will continue to say it until you get so sick of hearing it that you do something about it—when you have these contributing cases and you have a good Crown the child isn't even before the court. The child is invisible and there isn't much of a way for a judge to really handle the welfare of that child who is a victim.

The Crown in my view, notwithstanding the views of your ministry, also ought not to be involved, because the Crown has a very real role in pursuing the prosecution of an adult and not in protecting, as it were, the rights of the child in that particular action. There is, therefore, nobody to protect that child and to try assure that the traumatic experiences of the child will not have lasting and permanent effects on the future of that child.

I don't understand why you have felt that the Crown should be advising the parents of the rights of the child in these circumstances, particularly as the parent is often the offending party. That isn't in your answer up to now.

Hon. Mr. McMurtry: I don't understand what you are saying at all in that respect—it's not been my answer.

Mrs. Campbell: No, that's why I'm raising it again interminably. I have raised it with Dalton Bales; I've raised it with Welch; raised it with Clement. Now I am raising it with you and I get awfully tired of hearing my own voice. You may not suspect it but it's true.

It will go on being raised until you change the system because it is abhorrent to me that there is no representation in those cases, nothing put together to protect that child against damage on a permanent basis. The final word I had from your ministry, prior to your being Attorney General, was that they would circularize the Crown attorneys across the province to draw it to their attention to ensure that parents would be advised of the availability of the Criminal Compensation Board to the child.

At the time I said it was not my conclusion, not what I thought should be done, but at least if you started it maybe we could see how it works. To the best of my knowledge, certainly some of the Crown attorneys with whom I have spoken have never heard of it.

Hon. Mr. McMurtry: Again, really on a point of clarification, because I just didn't hear what you had to say, it seems to me that a higher priority should be given to protecting children from experiences, vis-à-vis the criminal process, which may scar them emotionally in some way. That, sure, should be given a much higher priority than the compensation factor. I think we agree on that.

Mrs. Campbell: I will say it in these terms: We had a Crown attorney at the family court who was absolutely excellent in my view. He protected the child at all times, as best he could, to keep that child out of the court. That is admirable but once the child is invisible to the court, there is no one protecting that child against the damage which has probably been done.

Hon. Mr. McMurtry: I think—perhaps in your absence; I'm not sure—Mr. Douglas Moffatt raised similar concern in relation to children who appear in court. We explained to him at that time that where it could be avoided, it should be.

Mrs. Campbell: Without question but that's not the point.

Hon. Mr. McMurtry: Obviously in some cases it is necessary but that is one aspect of the matter you are raising.

Mrs. Campbell: What I am saying is this: If it is found that an adult is guilty of con-

tributing, particularly if it is a sex offence and very particularly if it is an incestuous sexual offence—if you like—there should be someone to review that matter and to bring assistance to the child. It would seem to me that the Official Guardian's office is the proper office to have that kind of overview of the situation. It isn't a matter of Legal Aid in those cases but it is a matter that someone should have it. The Children's Aid Society is not there.

Hon. Mr. McMurtry: Yes, I appreciate that. I think this—

[2:45]

Mrs. Campbell: For a judge to bring in the Children's Aid, as I did on one occasion—it bothered my conscience, too, because it seemed to me that I was intervening improperly but I was too concerned, really, at that point to look at the niceties of the situation. I don't think it's the function of the judge or the Crown to intervene. It seems to me that there ought to be someone, quite apart from those having anything to do with the decision-making process in a case, to be handing some protection to that child.

I happen to think that if you get a real look at some of our institutions for women, and if you really go into the situation in depth, you will probably find that at least many of them have been victims of this kind of act as children. And I just don't think that we can afford—let's put it in terms of money since that seems to be a popular approach—the luxury of having these people proceed into our correctional institutions. I think it is a function that comes within your ministry and not within the Ministry of Correctional Services.

Hon. Mr. McMurtry: Just so that I understand you clearly, because certainly in earlier conversations, as I understood, the thrust of your concern was in relation to some form of compensation. Perhaps I misunderstood you, but as far as I can understand, you clearly take a particular case where there is a charge of incest against the father of a young daughter.

Mrs. Campbell: The charge of "contributing" is what I am talking about, and it may turn out that it is incestuous.

Hon. Mr. McMurtry: Yes, or contributing. But at some point in time it is your view that the Official Guardian's office, when there is a case involving a young person, that the Official Guardian's office should be formally notified in each and every case.

Mrs. Campbell: Once there is a finding that in fact that person is guilty of this act, the Official Guardian should be apprised so that the rights of those children can be protected and so that the facilities of the community can be brought to their assistance.

Hon. Mr. McMurtry: I would have thought that, for example, if it was a matter before the family court one of the responsibilities of a judge, if there is a finding of guilt, would be to determine whether or not the matter should be referred to Children's Aid and some determination should be made as to whether there should be any wardship.

Mrs. Campbell: I think the difficulty is that there is quite a dichotomy among the judges, because there is a penalty that a parent pays if he is found guilty of contributing.

Hon. Mr. McMurtry: Yes.

Mrs. Campbell: For a judge at that point in time to add to that has been considered to be inappropriate in view of the fact that the judge is dealing with a specific case.

I raised it as criminal compensation because there is nothing in place, really, other than that, and I recognize the problems of determining the damages. But it seemed to me a starting point. It does seem to me, though, that Children's Aid are not present during those hearings. God knows they don't have enough money to have their own court workers to go on the cases where they are specifically intended to be. They are not in the court; they don't hear the evidence.

If you tell me that in your view, as the Attorney General of this province, the judges should take this position, it might help to clarify. But in discussing it with, at that time, fellow-judges, there was a very wide dichotomy of opinion as to what was appropriate for a judge to do in those circumstances.

Hon. Mr. McMurtry: I can tell you, without attempting to sound as if I feel I have any particular degree of expertise in this area, because I don't. But I do have some knowledge. As far as the family court is concerned, it has been my view and my experience that the family court judge, quite apart from the specific matter to be adjudicated, takes an overview of the family problem. I would have thought that at least in cases in family court where a parent is charged with, say, a contributing offence and there is an adverse finding—even if there isn't an adverse finding—the family court judge himself or herself would want to inquire further

as to what might be done in order to better protect the interests of the child. I would have thought that the family court judge would be in the best position to do that. I am surprised to learn that some family court judges don't agree with that.

Mrs. Campbell: I think there's the element of the ongoing supervision which a family court judge cannot get involved in.

Hon. Mr. McMurtry: But who is the best person to do that? I would have thought that if there is a need, in the interests of the child, to monitor the situation to protect the child, it would be some agency of the community which has these resources, such as Children's Aid. Perhaps it could report back to the family court judge from time to time because the role of the Official Guardian is important, as you know. You talked about the administrative role before. The expanded role, as I contemplate it, has been one largely of advocacy when representations are to be made in court in the interest of the child. But in order to protect the interest of the child you really require some form of social agency to monitor the situation on a regular basis.

Mrs. Campbell: That I think is quite true. The only difficulty is that there's nothing overriding to ensure this kind of ongoing look. Children's Aid Societies, may I tell you, are hard put to look after the caseload that has been traditionally theirs, let alone to add this to it. It seemed to me that there should be some court officer who is set apart as having concerns for the child.

Reverting to what I said the other day about the use of the Official Guardian to get moneys out of court under threat of cutting families off welfare, I don't know of one case where the Official Guardian protested that procedure.

Hon. Mr. McMurtry: All right. Maybe this isn't the appropriate time to do it, but I am going to take advantage of this meeting in any event. I will let you read your note first.

Mrs. Campbell: I am sorry.

Hon. Mr. McMurtry: What I suggest, Mrs. Campbell, so there will be no misunderstanding in view of your very real interest in this matter—

Mrs. Campbell: It is not that I am interested as much as a very real and abiding concern.

Hon. Mr. McMurtry: Well, if I said interest, then concern is all-inclusive.

Mrs. Campbell: I think concern goes deeper than interest.

Hon. Mr. McMurtry: So there will be no misunderstanding between you and I as the Attorney General on the specifics of your concerns, I would like to do something that I think may be more productive than pursuing this conversation too much further here.

But I would be quite happy to set up a meeting involving you, the chief judge of the family courts, the Official Guardian, Mr. John Hilton who is in charge of our common legal services and is well known to you—

Mrs. Campbell: Indeed.

Hon. Mr. McMurtry: —and any other members of the committee; we will advise them of the meeting also. We can have a meeting to pursue this so that if there is some disagreement, at least we will know what that area of disagreement is. I am having some difficulty in sorting out in my own mind what we agree and disagree about. I'll do that, and I think that might be helpful to everybody.

Mrs. Campbell: I am delighted; if I have achieved that, I can breathe a sigh of relief. But could I suggest that one of the judges who deals with proceeds should also be at such a meeting, because while I have a high regard for the chief judge, I don't think he has an active knowledge of the proceed court as it functions? There are relatively few judges who do the proceeds in this province —well, certainly in this area; I don't know about the rest of the province, of course.

Hon. Mr. McMurtry: All right.

Mrs. Campbell: Thank you.

Mr. Hilton: Mrs. Campbell, if I may, I would like to enlarge on what the Attorney General has said. There has been an increased awareness in the superior courts of the concerns that you have expressed, particularly in custody matters. We have found instances within the last six months where the interests of perhaps 50 or 60 children have been recognized by the court, and the court has asked the Official Guardian to provide particular representation for those children. This they have done. Within the last year this is a new concern expressed by the courts, and it's growing very rapidly. I might say it's taxing the resources of the Official Guardian—

Mrs. Campbell: Precisely. That's why I am concerned about the lack of increased funding.

Mr. Hilton: At any event, that has not inhibited the supply of assistance to those children, which has usually been done by finding someone in the community where the problem arises—say it's in Belleville or somewhere like that—to act as an agent in the interest of that child.

Mrs. Campbell: Do you think it's appropriate, as I understand it, that Mr. Perry himself should have appeared on 31 cases in this relatively short space of time? Is that providing the kind of service to the child that we are talking about?

Mr. Hilton: He is endeavouring to develop and find out what the court wants, how best to serve the court and how best to advise the agents that he may engage. His concern is always the concern of the child; you know Mr. Perry as I know Mr. Perry, and that is his basic concern in these matters. This is a new service that is being given. You will see from the estimates book that in the area of the summary of work of this office, they have 3,008 more incidents this year, or an increase of 22 per cent. Some areas are down, but in the area of matrimonial causes, where children sometimes have been, as I think you termed it, the juggernaut between the parents—

Mrs. Campbell: "Guided missile" is the phrase I used.

Mr. Hilton: —there have been 3,126 more cases brought to that office's attention, or an increase within the last year of 32.5 per cent. So the work is growing, the efforts to meet it are growing and the efforts of the Children's Aid Societies in the various communities where they are working on it as well are appreciated. Your concerns are, I think, the deep concerns of that office.

Mrs. Campbell: Thank you. It seems to me that in these times our concerns are sadly so often expressed in monetary terms, but I don't see the concerns expressed monetarily in this vote. I have no opportunity, of course, to either move or vote more money for it, but I would express my co-operation should that come about with those changing philosophies in mind. I think you'll agree, Mr. Hilton, that it has to be a changing philosophy that we're looking at.

Mr. Hilton: The courts are changing theirs.

Mrs. Campbell: Because it hasn't been a philosophy up to now, or up until—

Mr. Chairman: Mr. Chairman, I want as critic to say a word.

Hon. Mr. McMurtry: Mr. Chairman, wherever you may be.

Mr. Gregory: You're it, Pat.

Mr. Chairman: I haven't got a great deal to say about this vote. I find it rather curious in a way that whereas all the other aspects of courts—court reporters, the justices of the peace—the whole thing has been given surveyorship, by the Law Reform Commission and others, these three offices have never really been investigated in depth, as to its actualities and its streamlining. This has been done internally in your office a little, but from an objective outsider's point of view as to what new structures, what new range of responsibilities—it is basically administrative as I see it. When called in, it makes surveyorship on matrimonial actions, particularly in divorce actions, it gives some care and attention, but these are functions largely of an administrative nature.

Perhaps they ought not to be. I think Margaret's position was correct—that all three of these votes, particularly the Official Guardian and the Public Trustee, a broadening of powers and responsibilities should be considered. Perhaps it should be referred to the Law Reform Commission to take a look at those two or possibly three offices. The Court Accountant, as I take it, is purely financial—the payment of moneys out of court and into court and the surveyorship and investment of those funds.

I would draw your attention to the Law Reform Commission recommendations which are a little different: Under part V of the family courts and certainly under part III—I'm not lugging all the great tomes about with me, but I thought the more pertinent one was page 145 of tome No. 5—

It says regarding the office of Law Guardian:

"The necessity for an independent representation of children in the proper assertion and protection of their individual human rights as opposed to their property interests is a principle of fairly recent recognition. We endorse this principle. This has led us to recommend the establishment of the office of Law Guardian in Ontario for the better protection of the rights of children. See report, part III.

"We are simply indicating here the intervention of the Law Guardian is critical

in the family court with respect to such matters as adoption, children born outside marriage, custody and children in need of care and protection. Although the formal organization of the court office of Law Guardian is considered elsewhere, we wish to emphasize here the importance of having qualified legal personnel readily accessible either on a permanent basis or an ad hoc basis as the circumstances in the various courts will dictate."

On page 147, they go on with respect to delinquency proceedings and say the child would be defended by the office of the Law Guardian.

I would think that the Law Guardian—the Law Reform Commission doesn't say this—could be very readily tied in with the office of the Official Guardian and that that function be extended to include that. We will hear that there are monetary restrictions on expansion at this time. But it has been recommended for some time now—these reports have come down through the years—and there is a crying need. We all recognize, as it's been said here, that too often the Children's Aid Society is in an adversary relationship and that the child's interest over against the parents, over against Children's Aid, and over against the whole world is not being adequately looked after except by a good judge who will intervene, take the matter into his own hands and extend the jurisdiction of the court. The judge may not have the jurisdiction, strictly speaking, to do that and that's what the recommendation of the Law Reform Commission is. I would ask you to give it good consideration and again move into that area. There's a real need and the path has been laid down for you. All you have to do is put your nose to the violet path or the grindstone or whatever you're putting your nose to these days and let's see.

Mrs. Campbell: And the ear to the ground.

Mr. Chairman: All right. The only other thing I want to mention in this vote is—John Hilton, you're the Queen's Proctor.

Mr. Hilton: Not me.

Mr. Chairman: Aren't you? Who is?

Mr. Hilton: I decry that.

Mr. Chairman: I thought you were the Queen's Proctor.

Mr. Callaghan: Mr. Polika in the Crown law office.

Mr. Chairman: In the Crown law office? It's not under here? There's no relationship. I just wanted to get Ms. Sandeman clued into what the heart of these estimates was. Have you ever heard of a Queen's Proctor before?

Ms. Sandeman: Enlighten me.

Mr. Chairman: I couldn't. What is a Queen's Proctor, John? Or Roger, or Roy or somebody?

Mr. Hilton: I think the Queen's Proctor is a person who looks after the required interests of the court as expressed in matrimonial causes, not so much between children but to see that there isn't connivance and collusion in relation to divorce matters. This is as a friend of the court in determination of such matters where the court deems it appropriate.

Mr. Chairman: And he's driven mad with work.

Mr. Hilton: Happily he is not.

Interjection.

Mr. Hilton: May I say that in the area you have spoken of, Mr. Lawlor, the Official Guardian's Office has done substantial work under the provisions of section 106 of The Judicature Act whereby they can intervene in the interests of children in damage actions and where drugs and things have adversely affected them. There have been tremendous beneficial results from their intervention on behalf of unfortunate children.

Ms. Sandeman: For instance, with children damaged by thalidomide?

Mr. Hilton: Right.

Ms. Sandeman: Is that action still ongoing in the Canadian courts?

Mr. Hilton: No. They are individual situations as the interest of the child arises.

Mrs. Campbell: Have they ever brought to the attention of the courts that perhaps the loss of a leg is as important to one child as to another in the award of damages? Perhaps the child who is poor and really needs the money more has suffered more instead of less.

Item 1 agreed to. On item 2, Public Trustee:

Mr. Chairman: On Public Trustee I have a couple of points. First of all, I want to bring the Attorney General's attention to charitable foundations or whatever these institutions are

called within a capitalist structure. Basically they are tax-evasion projects as far as I can see. My particular reference is to an article in the *Globe and Mail* of Wednesday, June 23, 1976, and the headline is "90 per cent of charity's funds are spent on operating costs, lawyer says." The lawyer is Fern Levis, counsel for the Public Trustee. The story says she "told a hearing of the surrogate court yesterday that the Canadian Foundation for Youth Action collected \$496,560 in nearly three years but spent only \$21,424 on charitable causes." Less than five per cent of the amounts of money brought in were used for charitable purposes.

What do you think about that kind of thing? How deep reaching is this particular form of ripoff—going out and collecting money from the public under charitable guises and then stuffing it in their pockets?

Hon. Mr. McMurtry: The Public Trustee, as you know, has the right to apply to the Supreme Court for an accounting, a public accounting, and this arose recently—I don't recall the date of the matter—in relation to the Etobicoke Olympic pool fund—

Mr. Chairman: Oh yes. Delightful.

Hon. Mr. McMurtry:—where we in effect directed or recommended a full police investigation be conducted because there were some allegations that came from different quarters with respect to the possibility of criminal fraud.

There was a full-scale police investigation. It revealed no fraud but in the public interest I directed the Public Trustee to bring an application before the Supreme Court to have a public accounting. Again, where there is a possibility of criminal conduct the police should investigate. I don't know whether we have a report, Mr. Hilton, in relation to the matter that Mr. Lawlor—

Mr. Hilton: It is part of the ongoing administration of that Act.

Mr. Chairman: On that "ongoing," to what extent does the Public Trustee—I take it that the Public Trustee elicits reports from all foundations, all people holding them out as charitable institutions, incorporated or unincorporated, in the province, surveys their financial statements, finds out what the expense picture is, how much is being allocated to directors' and others' fees. Is this so?

Mr. Hilton: Only when there are questions asked.

Mr. Chairman: In other words I have to know that XYZ Corporation is playing games?

Mr. Hilton: Yes.

Mr. Chairman: Do you know, Mr. Attorney, if we are working in co-operation with the companies branch of the Ministry of Consumer and Commercial Relations so that the Public Trustee has a more in-depth penetration for this?

Hon. Mr. McMurtry: As you know, Mr. Chairman, the ministry does not have any investigative function per se; we are the prosecutorial arm of the government. My own view is that perhaps there might well be tougher legislation in relation to charitable institutions to require them, as a matter of form, to submit some form of statement as to their activities on a regular basis. As is suggested by you, I really don't know at this point in time what the total responsibilities of a charitable institution are in that respect. I don't know that this is the role of the Public Trustee, but I don't have strong views one way or the other.

Perhaps Mr. Hilton could enlighten us as to what the public law officers' legal responsibilities are with charitable institutions with respect to some form of regular public accounting. I'm not aware of any, because under the law as I understand it now it is necessary for the Public Trustee to bring an application before the Supreme Court. It is within the discretion of the court as to whether or not such a public accounting is going to be ordered. Whether or not that that should not be a legislative requirement as a matter of course, I don't know—

Mr. Hilton: He does have a duty to survey charities and he does—

Mr. Chairman: Well, you got in in time.

Mr. Hilton: He does not initiate—

[3:15]

Mr. Chairman: You've got a good deputy there.

Mr. Callaghan: He's got an obligation on The Charities Accounting Act to keep him in line. Sometimes it's difficult to keep all the fly-by-night charities under surveillance which, I think, is a practical problem.

Mr. Chairman: Oh, there can't be that many.

Mr. Callaghan: I'm afraid there are.

Mr. Chairman: May I just quote your own Attorney General's thing on page 77: "Additionally, under The Charities Accounting Act and other relevant statutes, the public trustee has a duty to protect the rights of charities. A survey of charitable trusts is maintained to ensure that they are properly administered in accordance with the applicable law." And we're just told that this is not happening at all. I think it's high time that it was.

I just recently bought a book on charitable foundations, mostly American of course, but started to read it and it's overpowering in structure. Everybody from Rockefeller through to all the 23 great families in the United States operate under this particular thing. It is a tax dodge, somehow sacrosanct, somehow hedged off, so mysterious, these foundations and there would be a natural proclivity on the part of Conservative governments to have a ritual sense of regard for such fine institutions hoping, I suppose, each one of us to establish one for ourselves if you have the right colour of blue. Therefore, I move in on this particular area not only as a member of the opposition but as a socialist.

Can I elicit some kind of a response—

Mrs. Campbell: Sometimes a socialist.

Mr. Chairman: —from you as to giving greater surveyorship to this matter? I want these duties to be taken up and regarded seriously.

Hon. Mr. McMurtry: No, I appreciate the point that you're making, Mr. Chairman. It's an area of the ministry in which I've had no particular involvement apart from the Etobicoke pool fund, quite frankly. But I should be happy to pursue the matter.

Mr. Chairman: It's an area to conjure with, Mr. Attorney General. I make a little promise. If I'm sitting in this chair next year and we meet again—Maybe I'll be sitting where you are; then you can ask me, but the bright-eyed angel doesn't come in visitations like that. In any event, I want to take time on charitable foundations—

Hon. Mr. McMurtry: I don't know about that.

Mr. Chairman: —under this particular vote. I'll hammer away at it.

Mr. Callaghan: I think maybe, Mr. Chairman, I have a feeling that this is leaving the office kind of maligned and it really shouldn't be because, it does I know, effect

a rather substantial survey of these things. I think we'll get you a report on that particular case. I'm sure they can provide us with one before these estimates are over.

Mr. Hilton: I'm sorry; may I have that notification out of the press that you had?

Mr. Chairman: Talking about the particular case, I've written to the Attorney General about the Etobicoke pool. I've been diverted, submerged, subverted, whatever the hell you want to call it. The reply from the Attorney General, as I recall, was that this was a police investigation and, therefore, the report as to what goes on inside that organization is not available to the general public, least of all to myself. Do you repeat that, Mr. Attorney?

Hon. Mr. McMurtry: I assumed that you didn't object to the fact that the police had been asked to make an investigation.

Mr. Chairman: Don't take me up the garden path.

Hon. Mr. McMurtry: As you know, as far as the police report is concerned, it's never been a practice, and I certainly wouldn't endorse any practice that required the handing out of these reports. Because I think there is a legitimate public interest to be served by maintaining a degree of confidentiality with most of these reports.

Mrs. Campbell: Particularly if you are dealing with public money.

Mr. Chairman: Yes, let's protect that from public scrutiny at all costs. Here's a report, under your jurisdiction and authorized by you in the interests of public funds, touching an area of the province in which I have a specific interest because I was asked to subscribe to the scheme, and of course refused. It was \$5 million. By the way, that pool has got a leak in it, do you know that? It's unbelievable.

Mrs. Campbell: Both at the top and the bottom!

Mr. Chairman: An Olympic pool serving a very—certainly not serving my constituents, I can tell you that. I legitimately asked to know what the interstices of the matter were, what the background was, what the guts of the thing were, and I was told, no, you can't know that. I think I have a legitimate reason for knowing and I want to know.

Hon. Mr. McMurtry: I think on occasions such as that, Mr. Lawlor, I don't think I'd

have any difficulty in saying, look, there is a report, this is a confidential matter, and you can review it, but on the understanding that you are not going to publish it.

Mr. Chairman: I wouldn't accept it on those terms.

Hon. Mr. McMurtry: Well, then, I wouldn't give it to you.

Mr. Chairman: I think we are legitimately entitled to it.

Hon. Mr. McMurtry: You and I have a disagreement.

Mr. Chairman: It goes deeper than that.

Hon. Mr. McMurtry: No, surely you appreciate, the reports of police investigations, in order to be of assistance to those who have to act on them, must be full and frank.

Mr. Chairman: I hope so.

Hon. Mr. McMurtry: And the publication of these reports could do a grave injustice to the individuals who are mentioned in the report. That's not the way our justice system works. And anyone who thinks it should work that way, well, I say that's nonsense.

Mr. Chairman: Could I peruse the report?

Hon. Mr. McMurtry: They have no understanding of what the protection of the rights of the individual means.

Mr. Chairman: Could I peruse the report on the understanding that, first of all, it is at my discretion, and secondly on the basis of not quoting from the report in any direct way, but paraphrasing?

Hon. Mr. McMurtry: No, because there are allegations contained in police reports and if it turns out they are unfounded then someone may very well be gravely libelled. The publication of such an allegation without proper proof thereof, as I say, can lead to all sorts of problems, in my view. As I say, I'd be happy to have any of my senior staff who are here and who deal with police reports on a daily basis, to comment further on that. But, my rule from the bar is largely that of a defence counsel, although I acted as assistant Crown attorney and part-time assistant Crown attorney for some years, and I still see police reports from time to time in the ministry.

The idea of making public these documents would make it very difficult for the police to give us reports that would be of any assist-

ance. I mean, it would just totally interfere with any free flow of information between police departments and Crown law officers who have certain prosecutorial responsibilities. Even the strongest advocates of freedom of information legislation recognize that fact, and I am rather astonished that you wouldn't, Mr. Lawlor.

Mr. Chairman: I think this is a special type of case. I think this involves public funds solicited by a wide subscription to a so-called charitable venture, and so on, which turned to foul and misleading statements made all over. The counsel has brought in, to the tune of many millions of dollars taxpayers' money in order to erect this pool, the group itself, not coming up with the funds that were promised, or anywhere close to it—

Hon. Mr. McMurtry: I think you misunderstood what we have said and what has been reported in the press. There is going to be a full public airing of this matter. I have a letter which I don't think has gone out. I don't think I have signed this letter. This letter is dated November 1 and I haven't signed it yet. As a matter of fact, there is a letter going to you, Mr. Chairman, from the Attorney General, setting this out.

Mr. Chairman: Sign it now and hand it to me.

Hon. Mr. McMurtry: I'll read the letter. Would you like me to read the letter into the record?

Mr. Chairman: Is it long?

Hon. Mr. McMurtry: It's a page-and-one-half.

Mr. Chairman: Well, go ahead. It'll give me a rest.

Hon. Mr. McMurtry: This will be very upsetting to Mr. Bullbrook, who is not here, because the letter starts off: "Dear Pat."

I think Mr. Bullbrook took me to task for writing your colleague, Mr. Renwick, as "Dear Jim," You may recall.

Mr. Chairman: I always write you as "Dearest Roy."

Hon. Mr. McMurtry: In any event it says:

Mr. Chairman: Carissime!

Hon. Mr. McMurtry: "This will acknowledge your letter of October 19, 1976. I am pleased to advise you that, pursuant to the statements that I made earlier this matter

has been referred to the Public Trustee. His office has moved, pursuant to The Charities Accounting Act, to require a full accounting of the funds of the Etobicoke Olympic Facilities Fund Incorporated.

"On September 24, 1976, Mr. Justice Grange ordered that the fund submit its accounting for the period of May 9, 1972, being the date of its incorporation, to August 31, 1976, to the surrogate court.

"It has been reported to me that a motion was instituted by Mr. John Parrott, QC, acting on behalf of the Etobicoke Olympic Facilities Fund Incorporated. At that time Mr. Parrott argued that the order of Mr. Justice Grange being silent as to a returnable date, it was open to him to seek directions from the court. After argument, His Honour directed . . ." It should be His Lordship, and this will obviously have to be edited somewhat.

Mr. Hilton: That was His Honour. That was before Judge Moore.

Hon. Mr. McMurtry: Oh, I am sorry. "After his argument His Honour directed that the accounting was to be an accounting pursuant to the form prescribed by the Act and that such accounts were to be forthcoming within two weeks.

"Miss Fern Lewis appeared on behalf of the Public Trustee's office and resisted any further extension because of the time that already expired between the order of Mr. Justice Grange and the date of this return. Miss Lewis also pointed out that the office of the Public Trustee will require 30 days to review the accounts when they are produced to determine whether or not it will be necessary to file a notice of surcharge and falsification. This request was granted.

"Accordingly, then, Mr. Parrott is required to plead his accounts and have them filed by November 15, and the passing of accounts subsequent to the filing of notice of surcharge and falsification, if such is necessary, has been set for January 12, 1977. I hope this information satisfies your needs."

Mrs. Campbell: He ends all his letters that way.

Hon. Mr. McMurtry: I have no idea.

Mr. Chairman: That's right.

Mrs. Campbell: Every letter I have—

Hon. Mr. McMurtry: I don't think I have ever used that expression before, because that would be a forlorn hope on my part.

Mr. Chairman: You put all the indigent down. Our needs are greater than you know.

Mrs. Campbell: I wonder if I could draw a type of case to the attention of the Attorney General in a distinctly different matter, still within this vote.

Recently I had occasion to get in touch with the Public Trustee, and I must say this is an office of which I know fairly little. I do know Fern Lewis, but that's the extent of it basically.

[3:30]

This particular case was that of a woman who had been placed in a nursing home by her husband and the husband died. There was at least evidence that the nursing home, under the pretext of gathering some additional clothing for her, had attended at her apartment and had literally moved out a great portion of the contents of that apartment.

The doctor in the case was the doctor who was in attendance at the home, and it seemed almost impossible to expedite the doctor's report for the purposes of the usual application by the Public Trustee. I am concerned about this type of situation. It seems to me we have an element in our community which may be quite helpless, and yet the Public Trustee doesn't seem to be able to take any kind of proceeding to expedite this sort of report or to do anything. This happened in July of this year, I believe, and it was brought to my attention in September. Notwithstanding my efforts to try to get the doctor to comply, we were advised that the Public Trustee had extended his time for making a report.

There are a lot of things involved, obviously, in this kind of situation. It does concern me because I think that people may be victimized. The Public Trustee ought to have some procedures available to him to be able to move in such cases, at least to protect the assets. Secondly, he should be able to prevent the costs running as they were while nobody did anything—there was the rather expensive apartment vacant and subject to rent, and all the rest of the things that go with it.

What is the situation in a case like that? Is there nothing that can be done to expedite it? Must the Public Trustee sit in his office and await the convenience of a doctor in a case like this? Is there no way that they can get adequate medical assistance apart from this doctor? What can be done so that these delays don't occur, so that an estate which

presumably they are interested in protecting, once they are successful in their application, can be protected?

Hon. Mr. McMurtry: This woman was in a nursing home?

Mrs. Campbell: That is correct.

Hon. Mr. McMurtry: I think there are certain limitations on the Public Trustee's statutory authority in that respect, but perhaps Mr. Hilton could explain it better than I.

Mr. Hilton: I don't think I can explain it better, Mr. Attorney. The office of the Public Trustee has concern—and this is sometimes unfortunate—only over the estates of persons who have been so committed. Their involvement is not until after a person is in the institution or has been committed. In other words, they can't hasten the committal.

Mrs. Campbell: I would suggest that perhaps it is something you might look at, in view of the number of people who are in nursing homes and may be quite helpless in this situation. Could I invite you to at least look at this kind of situation to see if something couldn't be done—

Mr. Hilton: There are procedures under The Mental Health Act that might be reviewed in these sorts of circumstances.

Mrs. Campbell: I would urge that one look at it because I have a horror of some of the things that can happen to helpless people in our community. There seems to be such a hiatus in trying to get assistance to them.

Mr. Callaghan: He can only act if he has authority under The Mental Health Act as a committee or if the person is in a position to give him power of attorney.

Mrs. Campbell: In this case, the person was not in a position to give a power of attorney.

Mr. Callaghan: Then the only jurisdiction he would have would be if he were appointed a committee under The Mental Health Act with the concurrence of the relatives. If there aren't—

Mrs. Campbell: There is no problem about that. The problem is the delay and how we can accomplish some kind of an abridgement at the time.

Mr. Callaghan: It's really very difficult. As you know, we had a great deal of trouble in

this area when we got into The Powers of Attorney Act and it dealt specifically with this problem. How quickly can you take power of attorney? What's your liability if the person becomes incompetent and the power is outstanding? These are problems I'm afraid we just haven't got a legal answer to. I appreciate the difficulties.

If there are no relatives the Public Trustee can act on his own and initiate the fee. If you give us the name, we'll certainly be pleased to have him look into it for you.

Mrs. Campbell: I've already been in touch with the person who is "on the case" even before there is a case.

Mr. Callaghan: We'll light the match, if you'd like us to do that.

Mrs. Campbell: I'll be very happy to supply you with the details but I would hope that we learn something from these experiences. That's really what I'm getting at.

Ms. Sandeman: Under the duties of the Public Trustee, which come under The Business Corporations Act, perhaps we could have some comments on where we are with the IOS proceedings and some enlargement of the comment at page 77 of your annual report which says, "One of the major corporate transactions with which this office is currently involved concerns the IOS complex."

Can you give us some idea of what some of the other major corporate transactions with which the office is concerned might be?

Mr. Hilton: First of all, with the IOS, the complications, the permutations and combinations of Mr. Cornfeld's operations are really beyond understanding. There has been a trustee established for the portions of those corporations which are of interest to the province of Ontario. The Clarkson firm is the trustee in that regard. The firm has retained its own counsel and is seeking to pursue those assets it can to protect the Canadian and particularly the Ontario investors.

Ms. Sandeman: Does there seem to be any progress in that or is it just a stalemate?

Mr. Hilton: No, it's not a stalemate. The work is progressing but the fact of the matter is that it is so complex and so large. There is a meeting next month in Luxembourg. They seem to have meetings in Luxembourg. They've had one in Ottawa. They have them in the East Indies because there are corporate entities of this complex there. If you've read Mr. Cornfeld's book—the book on him—the

ingenuity of the human mind, I think, is best exemplified by his machinations.

However, it is complex. The assets in Luxembourg—Fermi-Voltaire has been brought in. There are substantial assets already collected and efforts are being continually made to collect more. There are two law suits in the United States which are progressing. Representations are being made there and Mr. Bill Anderson is representing the trustee. All I can say is it's progressing but that one, I'm afraid, has the seeds of eternal life.

Ms. Sandeman: It keeps us happy from year to year to hear how you're getting on.

Mr. Hilton: Yes.

Ms. Sandeman: Maybe one way of solving it is to use up all of the assets by meeting in Luxembourg and wherever year after year.

Mr. Hilton: I assure you that the assets are—

Ms. Sandeman: Larger than that?

Mr. Hilton: —are larger than that, the interest couldn't be eaten up with the meetings.

Ms. Sandeman: Could you give us then some of the other major corporate transactions?

Mr. Chairman: I'm sorry. May I stay on that one just for a moment? It's an intriguing situation.

Have the shares held by the Bank of New York as custodian been placed in the hands of the Public Trustee of Ontario?

Mr. Hilton: Not yet. That action is still pending in New York.

Mr. Chairman: And I take it your real difficulty is locating shareholders?

Mr. Hilton: Trying to locate shareholders is next to impossible, but the effort is being made by circularization and—

Mr. Chairman: And who is the character who has gone to Nicaragua?

Mr. Hilton: Vesco.

Mr. Chairman: Are you able to get to him at all?

Mr. Hilton: I don't think anyone has been able to get to him and the American authorities are still seeking to get to him.

Mr. Chairman: So far as you know, are the Canadian authorities also?

Mr. Hilton: I don't know.

Mr. McLeod: No extradition is available.

Mr. Hilton: Not in that jurisdiction.

Mr. Chairman: He is protected by the dictator of that country because he is their sole source of revenue.

Ms. Sandeman: I just wonder if you could give us some idea of some of these other major corporate transactions. I imagine they aren't on the scale of the IOS—

Mr. Hilton: Nothing like it. They come up all the time in matters of escheat. The Farmers' Gas case is currently very much in the fore where an effort is being made through the auspices of the Public Trustee to maintain some ongoing supply of gas to the subscribers to that company. Whether that is to be successful or not, I really don't know. That is being done in co-operation and co-ordination with the Minister of Energy (Mr. Timbrell).

But there is a continual flow of requests of companies that have failed to file their corporate returns, their charters have been cancelled, and their assets have escheated to the Crown. Someone comes along later and satisfies the Public Trustee of the bona fide of their claim. Perhaps it was a family corporation and all the money was from one source to the assets of the company. They are then released through the Ministry of Consumer and Corporate Affairs.

Mr. Chairman: They don't have to revise the charter?

Mr. Hilton: No.

Ms. Sandeman: Is the legislation we were dealing with yesterday, involved with the reporting of corporations tied in with this?

Mr. Chairman: My heart and complete dedication are with Roy McMurtry at the moment. I just don't know what legislation—

Ms. Sandeman: All right, it is okay. It seemed to me there may be some—

Mr. Chairman: I am sorry, I just don't know. I have a couple of final questions, as far as I am concerned. In the report of the previous year, on page 44 you say that there has been a streamlining going on as to its efficiency through a contract with Leffer Consulting Service for a feasibility study in the office. Then further down you talk about a new financial system. Oh, by the way, has that feasibility report been completed and submitted?

Mr. Hilton: No.

Mr. McLoughlin: The feasibility study has been completed, we are just in the process now of drawing the specifications and the implementation of the system, which should come forward fairly soon.

Mr. Chairman: Where is the money for that feasibility study? Is it within that vote?

Mr. McLoughlin: Yes, well, it was in last year's. I believe it was \$16,000.

Mr. Chairman: I see. The next question regards the new financial systems, paragraph n, discussing intended new financial systems which were to be programmed and implemented by April 1, 1976 for the beginning of the new fiscal year. What is the score on that?

Mr. McLoughlin: Well, we didn't get that far with it. We are just at this point now drawing the specifications for publication.

Mr. Chairman: When do you expect to be in operation?

Mr. McLoughlin: The whole programme will take in excess of a year.

Mr. Chairman: Will that keep a maintenance, a fair level of staff or—

Mr. McLoughlin: It should reduce the staff. The Public Trustee really is running a very tight ship in that sense. We've been using unit record equipment there are we're going to computerize it. This will give much quicker retrieval of the information, which has always been a difficulty under this type of system. I would think in the range possibly of 10, maybe even more staff. It is hard to tell at this time.

Mr. Chairman: One final question. What is "surplus account" in the Public Trustee? It is some millions of dollars. Does this mean that money can be diverted to the funds of the province?

[3:45]

Mr. McLoughlin: Yes. It has been in the past normally. I believe it was about four or five years ago that amount of money was turned over to the province; the surplus is building up.

Mr. Chairman: It's building up, yes.

Mr. McLoughlin: I think it's \$4 million or \$4.5 million. It's a substantial figure.

Mr. Chairman: That money is kept invested, I take it, in government bonds mostly?

Mr. McLoughlin: Hydro.

Mr. Chairman: Hydro—dear old Hydro; it's always around somewhere! From time to time, as you say, it is brought back into the general revenues of the province. How does the money arise? How does this money come into the surplus account?

Mr. McLoughlin: The Public Trustee is running a trust company just the same as any commercial trust company is, only it's obliged to accept its accounts; it hasn't got the reservation that many trust companies have today that won't look after the administration of estates and accounts under certain sums. They are obliged under law to accept all sorts of accounts and it is from the profit arising out of the operation of those accounts in the same way as profit arises out of the trustee.

Mr. Chairman: No, no. The profit arising out of accounts in overwhelming instances would go into the accounts themselves, wouldn't it, and the interest would be written—

Mr. McLoughlin: There is a service charge.

Mr. Callaghan: It's a management fee.

Mr. McLoughlin: Management fee—service charge.

Mr. Chairman: What is the management fee? Is it negotiated in each instance or is it across the board?

Mr. Callaghan: No, it's an across the board fee.

Mr. Chairman: Just like a trust company; 3½ per cent.

Mr. Callaghan: That's right. But they're paying three per cent—

Mr. Hilton: No, it's three per cent on Crown estates; they're now paying seven per cent.

Mr. Chairman: Why do you do that?

Mr. Callaghan: What?

Mr. Chairman: This is a public service, paid out of taxpayers money.

Mr. Callaghan: That's right, but it's a large operation involving the handling of assets in excess of \$135 million annually. You have to have a rather large plant to handle that, with many people, many accounts, and a fee is

charged to each estate—much smaller than a lawyer would charge in private practice, mind you, in handling a similar estate, and it's smaller than a trust company would charge. When you handle assets of this extent, the fee applied on a straight line across the board produces an annual revenue.

Mr. Chairman: Again I want to be clear about this.

Interjection.

Mr. Chairman: This may be an added source of funds, for heaven's sake.

Mr. Callaghan: It is.

Mr. Chairman: I know, but in a more unanimous way. What is the rate now?

Mr. Callaghan: Mr. Hilton will have to help you. I can't give you the precise rate or what the estate rate is.

Mr. Chairman: But it's considerably lower than the trust companies' in the—

Mr. Callaghan: I wouldn't say it's considerably lower. I'd say it's—

Mr. Chairman: Two or three percentage points?

Mr. Callaghan: —one or two points lower.

Mr. Hilton: I will get that exactly.

Mr. McLoughlin: The other thing is they charge on the basis of four-year charges depending on the activity in the account. This is one source of revenue for the Public Trustee. The other is, of course, earnings on investments. The Public Trustee is self-sufficient although we vote funds each year for the operation of the Public Trustee. If you look in the financial statements on page five you will see a section, expenses, starting off with salaries of \$1,777,600. If you look in the estimates in the blue book you will see that was the expenditure on salaries for the year. In government accounting, as you well appreciate, Mr. Chairman, we don't co-mingle revenue with expenditure.

Mr. Chairman: That's right.

Mr. McLoughlin: Right?

Mr. Callaghan: They don't give us credit for running it effectively and efficiently.

Mr. Chairman: This is a quite unique operation then within the government itself.

Mr. Callaghan: In what way?

Mr. Chairman: In the fact that it's self-operating.

Mr. Callaghan: That's correct.

Mr. McLoughlin: That's right.

Mr. Chairman: I don't know of any other.

Mr. Callaghan: It's a profit-maker, if you want to put it that way. I think it is run very efficiently.

Mr. Chairman: I am not disputing that. I am going to get some more money for Legal Aid!

Mr. Callaghan: That's a good suggestion. If the surplus from the Public Trustee's accounts were applied to Legal Aid, it would certainly help, except we never seem to convince the government that the moneys they earn on administering cemetery trusts should go into Legal Aid.

Mr. Chairman: But you certainly could approach Darcy on that one. This is money that is internally generated but none of his business.

Mrs. Campbell: Perhaps it should be deferred and listened to if we can't find any other way to get them decently accommodated.

Mr. Chairman: We look in any cranny, and this is a cranny with \$4.5 million.

Mr. Callaghan: That is an accumulation of approximately 4½ years, I think, Mr. Chairman. It's about \$1 million a year.

Mr. Chairman: Well, okay. It's there.

Mr. McLoughlin: The last payment was in 1973.

Mr. Callaghan: Three years ago.

Mrs. Campbell: When is it hoped to be turned over again? How do you turn it over?

Mr. Callaghan: We turn it over when the Treasurer looks at our statement and says we have too large a surplus for the health of the operation. I am not sure whether he is talking about the Public Trustee's office or his own operation.

Mr. Chairman: He hasn't come across this one yet.

Mr. Hilton: At that point the Public Trustee cries at the loss of the money.

Mr. Chairman: That is called corporation stripping.

I see that the rent has been increased by \$166,000. Is that correct?

Mr. Callaghan: That is correct.

Mr. Chairman: With rent controls in effect, why would they do that kind of thing?

Mr. McLoughlin: That was prior to the rent control, of course—

Mr. Chairman: Are you joking with us?

Mr. McLoughlin: No. The Public Trustee, being self-supporting, is unique. With all other rental properties that we have, the charges go through Government Services; in the case of the Public Trustee, because of its self-sufficiency, the money is actually paid in the form of rent to Government Services as the landlord.

Mr. Chairman: How much was the rent before?

Mr. McLoughlin: If I'm not mistaken, I think it was \$90,000. I've forgotten; I would have to check that figure.

Mr. Chairman: It was \$90,000?

Mr. McLoughlin: It seems to me it was around that; I'll have to check that, though.

Mr. Chairman: And it went up another \$166,000 on top of that?

Mr. McLoughlin: They have a huge premises, of course—a great part of 145 Queen Street; floors and floors.

Mr. Chairman: Yes, they do.

Mrs. Campbell: They need that kind of an edifice for that kind of a surplus.

Mr. Chairman: This internal switching of funds!

Item 2 agreed to. On item 3, Supreme Court accountant:

Mr. Chairman: The Supreme Court accountant administers quite a few funds, doesn't he? He administers the survey fund, the land titles certificate of titles assurance fund. And is there a third fund? Is it the land titles assurance fund? Yes, it must be the same thing. How much money has he got in that fund?

Mr. McLoughlin: The total amount under administration?

Mr. Chairman: Yes.

Mr. McLoughlin: As at March 31, 1976, he had approximately \$122 million.

Mr. Chairman: This is sitting there as a contingency fund in case there is any run on it or any demand on it. Is that correct?

Mr. McLoughlin: No, this is money flowing into the court in various actions: Suits and matters, \$106 million; assurance under The Land Titles Act, almost \$1 million; under The Certification of Titles Act, \$200,000; land title surveys, about \$200,000—

Mr. Chairman: Why would he keep \$1 million kicking around like that?

Mr. McLoughlin: That's the money that was actually paid in. These are liabilities.

Mr. Chairman: Okay, why isn't that money placed in the general revenues of the province?

Mr. McLoughlin: These are moneys that are flowing in and out of court on various matters.

Mr. Chairman: No, the fund, the assurance fund.

Mr. McLoughlin: The guarantee account?

Mr. Chairman: Yes.

Mr. McLoughlin: Approximately \$8 million.

Mr. Chairman: What is done with the money?

Mr. McLoughlin: To my knowledge nothing has ever been done with it to date.

Mr. Chairman: Is it invested?

Mr. McLoughlin: All the funds are invested. There is a very large portfolio; yes very definitely.

Mr. Chairman: A large portfolio of provincial government bonds? Are there any municipal bonds?

Mr. McLoughlin: Canada bonds.

Mr. Chairman: Mostly Canada.

Mr. McLoughlin: It's Hydro. I wouldn't say it would be mostly Canada, but I know one of the reasons for an increase in the fund was that the rate of increase went up from nine to 10.35 in the Canada bonds this year.

Mr. Chairman: Yes, it's every bank.

Mr. Callaghan: He had a higher yield on his bond.

Mr. Chairman: Any shares?

Mr. Callaghan: No. I think he is restricted to bonds of Hydro, provincial government and federal government.

Mr. Chairman: And other provincial governments but not United Nations or other agencies outside of this country?

Mr. Callaghan: That's correct.

Item 3 agreed to.

Vote 1203 agreed to.

On vote 1204, Crown legal services programme; item 1, Crown law office:

Mr. Chairman: The Crown law office covers a lot of ground. It covers criminal appeals, special prosecutions—

Mr. McLoughlin: Right. Mr. McLeod is here on that.

Mr. Chairman: —civil litigation—I just want to make sure—and legal advisory.

Mr. Callaghan: Yes.

Mr. McLoughlin: That's right.

Mr. Chairman: The inspector of legal offices.

Mr. McLoughlin: No.

Mr. Chairman: No, that's another vote, that's right. But the civil and the criminal side. What are summary conviction appeals in weekly courts?

Mr. Callaghan: The stated cases.

Mr. Chairman: The stated cases. Just incidentally on that, there has been some—to get rid of the trial de novo. I know it's been made a little tougher by recent legislation from the federal government. There was some talk of an alternative thing, going by way of stated case to the Supreme Court rather than permitting the trial de novo. Is that—

Mr. Callaghan: No. The way they dealt with the problem was they've permitted, I think, the various courts to prepare their own rules of practice governing summary conviction appeals. Certainly, we received the first draft of rules prepared by the county court of Ontario where these cases are heard. Under those rules there is an attempt made to dispose of these appeals on record.

Mr. Chairman: How many would go—

Hon. Mr. McMurtry: Mr. Chairman, if I might be excused just for a minute or two. Continue on. I've been drinking a little bit too much water this morning.

Mr. Chairman: Go right ahead. I'll speak to the deputy. As a matter of fact, we should all have a sixth-inning stretch.

I don't know why I wrote this down, but I did. Did you estimate the cost of fully implementing the Osler report?

[4:00]

Mr. Callaghan: No. We can't estimate that. It is dependent on a number of factors. The basic ones are the extent of coverage you are going to permit under the Legal Aid Plan—if you recall, Osler extends the coverage considerably—and the methods of deliveries they are going to permit. It is an interrelation of those two factors.

Clinical delivery is necessarily cheaper on a case-by-case basis than fee-for-service. Unfortunately the recommendations of Osler came down without—I am not saying without regard, but without a real cost benefit analysis that forms the basis of such an estimate. We have no way of predicting at this time the unmet needs that would have to be served by extending this coverage.

Mr. Chairman: Can we check as to whose speech this one is? I think it is Hon. Roy McMurtry's speech, contained in the Crown Newsletter issued in April, 1976.

Mr. Callaghan: Are we dealing with the Crown attorneys system here?

Mr. Chairman: No. I think it's Crown law office. He is talking about decentralization and additional court facilities—

Mr. Callaghan: Correct. That is the Crown attorney's office in Toronto.

Mr. Chairman: Maybe we should address ourselves to it for a few moments anyway.

Mr. Gregory: Do you want me to drop into the slot for awhile?

Mr. Chairman: Bud, you are most welcome. It gives me a breather in between rounds.

Mr. Gregory: Are you going to leave the chair?

Mr. Chairman: After the answer to this question. Decentralization. What do you think about it? What are you doing about it?

Mr. Greenwood: It is a very lengthy problem, but very shortly the difficulty we have in Toronto is that there are some 45 to

50 assistant Crown attorneys and the Crown attorney. A number of the assistant Crowns spend some six weeks at four or five suburban courts and they then rotate because it is not a particularly happy experience. They do the summary conviction matters and the preliminaries. The end result of that system is that no one ever has a handle on a particular case. They are practising what could be termed a horizontal system of prosecutions within that area.

The proposal is to decentralize and establish the Toronto office, which would remain where it is, and three essentially autonomous court facilities in Etobicoke, North York and Scarborough. They would then have their own, and it would be a technical situation until the new court houses are built. They would have deputy Crown attorneys with a number of assistants. They would handle all their own trials, including—and it is hoped and anticipated that the assistant Crown attorney or prosecutor would have his file allocated from day one and he would handle it until the trial is completed.

Mr. Chairman: Yes. That is very necessary. But it is a proposal at the present time. Could you?

Hon. Mr. McMurtry: It is more than that.

Mr. Chairman: It is more than a proposal? You have put four or five permanent Crowns in, say, Etobicoke?

Mr. Callaghan: If you listen to the executive we can locate the appropriate space which we are getting Government Services to try to rent for us right now.

Hon. Mr. McMurtry: We have government space rented already, don't we?

Mr. Greenwood: I believe there have been leads with respect to space. Also we have some space with respect to one of the suburban areas. The authorization for the additional Crown attorneys or assistant Crown attorneys has been approved by the Management Board. In fact we are in the process of very gradually hiring those people so they can be trained. Very optimistically we hope that the real programme could be initiated some time between June and September of 1977.

Mr. Chairman: I am not going to spend much more time. Cannot the numerous Crown attorneys in Toronto be seconded to that court?

Mr. Callaghan: That is what we are going to do.

Mr. Chairman: Yes, but something about people to be trained.

Mr. Callaghan: We can't effect an efficient decentralization with this present number of Crown attorneys. We are going to have to supplement it. What we are doing is hiring some people now so in the next six months we can train them and feed them into the system, so between June and September, which is the promised beginning according to Government Services, we will have a staff that we will then second into the Etobicoke offices, which will comprise the first one, and then North York.

Mr. Chairman: In other words, you will have two or three experienced Crowns going in and then you make sure three younger men are being trained.

One final question. Are schools any good for that purpose? There are vacant schools in Etobicoke and I am sure throughout the major metropolitan areas.

Mr. Greenwood: We have found the better space was in factory buildings because they adapt themselves to the high ceilings, which are required for the area occupied by the judge—

Mr. Chairman: You mean when he hits the ceiling?

Mr. Greenwood: I think the school space certainly has been used in Etobicoke for family court, but that would be outside my area.

Mr. Gregory: Mr. Chairman, I hope I am in the right section. If I am not, I don't know what other section it would belong in. I wanted to have the opportunity of asking a couple of questions of both the Attorney General and Mr. Greenwood. Mr. Greenwood was the former Crown attorney in Peel region—is that not correct?—and is probably familiar with the subject I wanted to talk about. That is the subject of the now-defunct, I suppose, judicial inquiry in the city of Mississauga. This has quite a long history, which I won't bore everybody with. The fact is that it was called for by a resolution of council of the city of Mississauga in approximately April, 1975, at which time the vote was unanimous and I hasten to add I was part of that council that voted for it. Subsequent information showed that we were given rather bad advice by our Mississauga legal counsel. Had that advice been given correctly the vote would not have been as it was.

Be that as it may, the judicial inquiry went on for some time and it was bounced about. It was investigated thoroughly. Certain allegations made by the mayor of Mississauga were never divulged to any other members of council. It was investigated by the Peel Regional Police and the Ontario Provincial Police, and I believe the Crown attorney's office conducted some investigations on it. The provincial court, I believe it was Judge Estey—

Hon. Mr. McMurtry: The divisional court.

Mr. Gregory: —divisional court, declared that the judicial inquiry was illegal, I suppose is the phrase, because of certain terminology in the resolution. I believe the Crown attorney's office has stated they investigated all of the allegations and found nothing that would warrant further action in the way of a judicial inquiry or action by the police.

Mr. Greenwood: That would be partially right. The conclusion of the Crown attorney's office following a review of the report was that there was nothing contained in the report that would warrant police participation or prosecution. Now, it may be that there were other matters that might be interesting as a civic matter of an inquiry, but that didn't concern us. There was nothing of a criminal nature.

Mr. Gregory: I assume from that, you are referring to the allegations that were made. You found there was nothing in the allegations that would warrant police action?

Hon. Mr. McMurtry: There was a very full review of the documents and I think there was nothing that warranted charges, whether they were related to the allegations or not related to the allegations.

Mr. Greenwood: Yes, that's right. The allegations led to further investigation of ancillary matters and as a result of the entire investigation it was concluded there was no merit in considering criminal proceedings against anyone.

Mr. Gregory: Okay, there was, as a result, during the time that this was going on and before the decision of Judge Estey, an affidavit that was sworn by the former executive assistant of the mayor of Mississauga, Dr. Gordon Watt, in which he himself made certain statements pertaining to the reason or the motivation for the calling of the judicial inquiry by the mayor of Mississauga. There has been no action taken on this and if I

may quote the Attorney General from a statement he made in the House, I am probably not too accurate, Roy, but your statement was to the effect when questioned by, I believe, Mr. Singer, that you did not intend to go any further to help the mayor of Mississauga in his witch hunt. Do you recall making that statement?

Hon. Mr. McMurtry: I didn't put it quite in those words, but I think I talked about my reluctance to expend public funds on a fishing expedition. I may well have referred to the mayor of Mississauga; I can't recall.

Mr. Gregory: I think the meaning was much the same. My concern is that this is all well and good and the people of Mississauga have been put to considerable expense—I believe about a quarter million dollars—for this investigation as far as it went. That's not the worst part from my standpoint or the way I am viewing it. There were certain allegations made and, of course, some of them were made public during the divisional court hearings. Some of them were made public. Of course, when that happens, the public reaction seems to be that where there is smoke, there is fire. There doesn't have to be anyone proved guilty of anything.

There are certain suspicions rampant in Mississauga about certain particular people in the background of Mississauga—previous councillors, previous members of council, previous people involved with the city—that had never been disproven. The allegations have been made and I am sure you are well aware that when this happens without any further action and no clearing up taking place, that these people are guilty in the eyes of the citizens.

In view of the affidavit and the charges that were made by Dr. Gordon Watt, which would seem to indicate that there was absolutely no justification except for political motivation for the calling of the judicial inquiry, by the mayor, what action do we take now? What happens now? Because nothing seems to be happening. Do we take action to investigate the validity of this affidavit?

Hon. Mr. McMurtry: All the documents that were reviewed by the OPP, as I recall, Mr. Gregory, have been handed back to the council to their own solicitor. Council themselves have all of this information, all the material. I guess this material really is what was required by Judge Stortini during the conduct of the inquiry. We have not retained

it. We returned it to the council through their solicitor.

Furthermore, as you know, there are some civil actions that are being commenced by certain former members and other persons who felt that they were grieved in respect to the allegations and these matters are presently before the courts. I know of no further action that we can take in the circumstances. I would be quite happy to hear your suggestions in that respect.

Mr. Gregory: Am I to understand from that. Mr. Attorney General, that if a person is charged or accused of something by another person, his only recourse is through taking civil action himself?

Hon. Mr. McMurtry: Generally speaking I think that is right.

Mr. Gregory: If someone in this room—not in this room because it wouldn't happen, but in another room, somewhere—accused me of the most heinous crime, which the press were handy to pick up and spread across the newspapers to the point that my reputation is completely damaged, the only recourse to me is to initiate civil action myself? The police, the Attorney General, the Crown attorney's office are not going to take any responsibility to defend me in any way?

[4:15]

Hon. Mr. McMurtry: No, it is not a question of defending you. The Attorney General's office has no jurisdiction in this area. We have certain statutory responsibilities, certain statutory functions. But when it becomes a matter of a dispute or a grievance, regardless of how legitimate, that exists between individuals, then that is a matter for the civil law as opposed to the criminal law. In certain very rare cases, a libel can become criminal. But generally speaking, it is a matter of civil law and not for the criminal law.

The jurisdiction of the Attorney General in relation to the civil law is only in relation to matters involving the government. We act as counsel to the government, but when it comes to resolving or providing for some sort of remedy between aggrieved citizens, we just have no role. We have no right to intercede.

Mr. Gregory: What about the terrible misuse of funds? Is that not a position that the Attorney General's department should defend against? The misuse of public funds?

Hon. Mr. McMurtry: We don't condone it, but unless there is a criminal act, unless there has been some evidence of a criminal act in

relation to the funds, we have no right to intervene whatsoever.

Mr. Gregory: So the only recourse to anyone, if they are accused of something, no matter what, is to take their own civil action.

Hon. Mr. McMurtry: That, historically, has always been the way, as I understand it.

Mr. Gregory: Which means if you take civil action and if your name is blackened in some way, it can be as much as a year, two years, five years, or 10 years before you can in any way clear your name. If anybody remembers then, it will appear on the back page of the Toronto Star. So really, in effect, all a person has to do—and I guess we are getting into the area of civil rights—if he doesn't like the cut of your jib, is to make some wild accusation in the paper about your personality or something about you, and the best the injured person can hope for is that maybe in a few years he might get some money to make him feel a bit better.

Hon. Mr. McMurtry: That is what the laws of libel and slander are all about. These actions can proceed to trial much faster than that, depending on the lawyers. But I should also point out to you, Mr. Gregory, that Mississauga has all of these documents now. There is nothing to prevent them, if they feel that there is some useful purpose to be served, from constituting another inquiry to review what has occurred, as long as it is properly constituted and within their jurisdiction.

One of the problems in relation to the other inquiry was that some of the terms of reference were clearly outside the jurisdiction of any inquiry that could be established under the particular section of The Municipal Act. But there is nothing to prevent the municipality from initiating a further inquiry to clear the air, I suppose, if that is what they want to do.

Mr. Gregory: Well, it is rather difficult from a timing standpoint, Mr. Attorney General, because they are in the middle of an election out there. I don't think anybody on that council is going to initiate an inquiry into themselves to find out why they took a certain action. I hardly think that.

Hon. Mr. McMurtry: Not between now and December 6 or whenever the election is. That is only a month away. I realize that this is difficult for many people in the community to understand. They feel that the role of the Ministry of the Attorney General, is to right wrongs that may have been committed be-

tween individual citizens. All I can do is stress the fact that this has never been the role of the Ministry of the Attorney General. The Ministry of the Attorney General simply has no right to intervene whatsoever, when it comes to grievances that have to be resolved in court or otherwise between individual citizens.

Mr. Gregory: I hope you'll pardon my innocence, I suppose naivety, and please don't think I'm being facetious when I say this or smart-ass or anything else—but the Attorney General can take action when one hockey player hits another over the head with a stick.

Hon. Mr. McMurtry: If it's a criminal offence, where there's a—

Mr. Gregory: Or he can take action if pornographic literature appears in the wrong place.

Hon. Mr. McMurtry: If it's a criminal offence.

Mr. Gregory: But it seems if a character of a person or people is damaged, in my way of thinking as a lay person, that is also a criminal offence.

Hon. Mr. McMurtry: It's not. That may be your opinion, but it doesn't happen to be the law. There is a clear division between what is generally regarded to be criminal law and the civil law, and I've never heard any serious dispute or criticism of the line of demarcation. But you know, what is criminal law and what is civil law, as I say, has been long-established. Although I agree that in a moral sense there may be a character assassination and from the moral standpoint it may very well be much more serious than, as you say, hitting somebody over the head with a hockey stick; notwithstanding that, there is a very clean line of demarcation so far as our criminal and our civil law is concerned.

Now, if the Parliament of Canada wished to make or broaden the meaning of criminal libel or establish a new offence known as criminal slander, such as character assassination, then, of course, that is the decision that could be made by the elected members of the federal government. But we in Ontario, as you know, cannot legislate criminal law. The government of Ontario has no right to legislate criminal law whatsoever. All we can do is legislate what is a civil law. And if we attempt, for example, to make that type of activity that you talk about as an offence, then we are clearly entering into or impinging on what is clearly within the jurisdiction of

the federal government. So I don't want you to think that I don't share your concerns in this respect, but there are just simply very definite and fairly precise limitations on the role to be played by the ministry in this area. I hope I've made myself clear.

Mr. Gregory: Just one further question, Mr. Chairman. I wonder if the Attorney General could tell me what the charge of public mischief is used for?

Hon. Mr. McMurtry: Public mischief can be in relation to falsely reporting the commission of a criminal offence. That would be the most common occurrence that could lead to a charge of public mischief.

Mr. Gregory: Falsely reporting a charge?

Hon. Mr. McMurtry: Yes. I don't have the section in front of me, but I suppose if a person makes or falsely causes a police investigation to be launched or undertaken as a result of a false statement, that I think could be a charge of public mischief, could it not, Mr. Greenwood?

Mr. Greenwood: Yes, it could be.

Mr. Gregory: If a person caused an investigation by the police to be undertaken as a result of false allegations, does that cover it? Is that what you said?

Mr. Greenwood: Yes. I don't think it fits the situation here. The background was that an inquiry was called for by the mayor because of things he had heard which were of a general nature; I think they covered issues of impropriety, of bribery—serious matters. He wanted an inquiry to look into those allegations, and, of course, his submission to council was in the most general terms, without any names. I think it was up to the council at that point to say, "Well, before we vote let's hear what it's all about," but council voted for that generalized type of inquiry. It was not the mayor who instituted the police investigation.

When I heard of it as the Crown attorney it raised issues of criminal law because of the bribery allegations and so forth, and it was at that point that I contacted the mayor and said I wanted the criminal aspect investigated by the police. "If there is no criminal element involved then you can go on with your inquiry," so the initiation of the criminal investigation was at my instance, not the mayor's.

Mr. Gregory: And wasn't it true that if not all of the allegations, certainly by far

the majority of them had already been investigated by the Peel regional police prior to the mayor even taking office and it had been proved there was no validity to them?

Mr. Greenwood: I don't think I can really enter into that discussion, Mr. Gregory. It's dealing with the police report and the police investigation, which is confidential, and which is in the hands of the council through their solicitor.

Mr. Nixon: Mr. Chairman, just before we leave that: The topic, of course, is an interesting one and occupied the Legislature quite extensively at one time. What did the judge say after he was—I wouldn't say that the word "dismissed" from his responsibilities would be the proper one—but his responsibilities came to an end? Didn't he make a statement that indicated that in his opinion as the judge the situation had been handled with something less than perfection?

Mr. Greenwood: No.

Hon. Mr. McMurtry: No, he didn't say that. You will recall the statement that he made.

Mr. Greenwood: I believe he indicated that notwithstanding that the matter had been dismissed by the divisional court, that he thought there were areas that required further investigation.

Mr. Nixon: Ah, yes, something less than perfection. Was not some disciplinary action undertaken by his superiors in that connection? Was there not some indication that the judge was somewhat at fault in expressing that view?

Mr. Greenwood: No.

Mr. Nixon: Then if he was not at fault, would it not concern the law officers of the Crown that a judge had indicated that the circumstances were less than perfect as far as the situation and the judicial reviews were concerned?

Hon. Mr. McMurtry: No. It concerned me to this extent, that we wrote the judge and his counsel, as I recall, Mr. Nixon, and requested him to provide us with specifics of any further areas that in his view warranted an investigation. As I recall—and correct me if I'm mistaken in these details, Mr. Greenwood, because in some respects you're more familiar with it than I am—I also wrote the chief judge of the county courts and indicated that I felt that it was incumbent upon Judge Stortini to make known this information

to which he referred in very general terms. If there was anything that warranted further investigation, particularly with respect to the possibility of a commission of any offence, then we felt that he had a responsibility to turn this information over to the police so the investigation could be conducted.

The result of this was that Judge Stortini turned over all the documents to the Ontario Provincial Police. They were reviewed—and we talked about this a few minutes ago just before you arrived—and then there was a question, as I recall, as to whether or not there was some additional information that might warrant investigation with respect to the possibility of charges. Then, as I recall, Judge Stortini advised Chief Judge Coulter, who advised me in writing that Judge Stortini had advised him that he had no additional information.

So I think it's fair to say that his general statement in the letter certainly could not possibly have referred to any evidence of any criminal conduct—on what he told Judge Coulter and what he sent us—as to warrant further investigation with respect to some conduct that had not anything to do with criminal conduct. You really get into an area of conjecture or speculation.

Mr. Nixon: You mean as to why he said what he said?

[4:30]

Hon. Mr. McMurtry: I'd like to know that myself.

This not particularly relevant but Judge Stortini was a student in my office, and one of these days I'm going to ask him—but he hasn't volunteered—

Mr. Nixon: Judge Stortini was a student in my science class. Perhaps I might ask him the same thing.

Mr. Gregory: He's got a bad background.

Mr. Nixon: With a background like that I think that the Attorney General and I would both agree that it seems highly unlikely that his statement would be connected to anything other than the original terms of reference, which were very broad—

Hon. Mr. McMurtry: Very broad.

Mr. Nixon: —and did not exclude matters that might not lead to criminal charges.

Hon. Mr. McMurtry: There might have been matters that he thought were relevant to the municipal government, and that that had nothing to do with the commission of a crime—

nal offence. My interest in the matter of course could only be in relation to whether or not a criminal offence had been committed. That was part of the original allegation. Whether or not he felt there was something relevant had nothing to do with that.

I never felt that I was in a position to request Judge Stortini or insist that he advise me, because that was clearly outside my jurisdiction. I think it would have been quite improper for me to gather information that had nothing to do with my responsibilities—notwithstanding my own curiosity which was undoubtedly similar to yours.

Mr. Nixon: My curiosity was fairly well whetted at the time, because some circumstances led to someone approving the establishment of the commission at the behest of the municipality.

Hon. Mr. McMurtry: No the municipality established it. They established it on their own under that section of The Municipal Act. Mr. Gregory was a member of the council.

Mr. Nixon: And now Mr. Gregory, in this committee, in the line of questioning leading up to where we are now, was inquiring about the usefulness of a charge of public mischief. Now who the devil could he be referring to? What is the connection?

Mr. Gregory: May I speak on a point of personal privilege. I know exactly what Mr. Nixon is driving at, but I think Mr. Nixon is well versed on the history of this thing, even closer than most other members—I'm sure you are, sir.

The inquiry was called by a resolution of council, unanimously. At the time the question was asked by me of the solicitor to advise us on the allegations. He said at that time that he had seen the allegations and felt that if he divulged that information to any member of council, they too would be subject to legal action—libellous action.

Now we're not lawyers. We had to assume the information given by our lawyer was correct—that he was giving us good advice.

Mrs. Campbell: A very poor assumption as we learned.

Mr. Gregory: We had a very poor lawyer. So we voted for it. Within a week it became apparent—requesting the city solicitor—he had not seen the allegations. In fact the mayor had not shown them to him because his solicitor advised the mayor that if he showed them to the solicitor he would be guilty and subject to legal action.

Mr. Nixon: Wasn't that written down somewhere?

Mr. Gregory: I have never found that out, Bob.

The point is that at the very next council meeting, on this basis, there was a motion, again put by me, to reopen the subject, so we could bring it out in the open and take whatever action was necessary. That motion was defeated seven to three.

Okay, I was a dupe on that; I'll admit that. But unfortunately I took the advice of a lawyer which was probably very bad advice.

Mrs. Campbell: That's a cry that goes out across the world.

Mr. Gregory: That's the problem. We do that too.

Mr. Nixon: Mr. Gregory, I can assure you that if I did that I still don't know what you're talking about. Really, it is a conundrum. It is a footnote to a footnote I've got to admit. But it was an interesting circumstance at the time. Who might have been charged with public mischief in that connection, Mr. Chairman?

Hon. Mr. McMurtry: I think if any individual had made a specific allegation, as I understand the law, of criminal misconduct on the part of any other named individual and thereby had caused a peace officer to enter upon an investigation related to that allegation, then that individual could be charged with public mischief. As it turned out the information was given to the police officer falsely, and that it was known to be false at the time it was given.

Did I not make myself clear?

Mr. Nixon: Yes, that really is the way I understood it, and so Mr. Gregory is indicating in an oblique way that in his opinion someone, knowing the information was false or the allegations were false, still followed them to the point where the municipality was committed by resolution to the establishment of a commission which, even though it was subsequently quashed, cost a lot of money.

Mr. Gregory: Mr. Nixon, I merely asked the question, what was the charge of public mischief all about?

Hon. Mr. McMurtry: That's right, yes.

Mr. Gregory: That was my question, wasn't it? I didn't suggest that anybody be charged with public mischief—how could I do that, I am not a legal mind. I asked a question; so you draw a parallel; I was shot down.

Mr. Nixon: Well, I tell you, I am not overtly defending or attempting to defend anybody, but when you write the story of your life I would really like to find out what the devil—or somebody writes the story of his or her life—to find out what was going on out in Mississauga, under those kind of crazy times.

Hon. Mr. McMurtry: Mr. Gregory simply felt that in the event that there is some degree of impropriety on the part of somebody connected with the calling of that inquiry, that he was concerned that this would not be of some interest to the Ministry of the Attorney General. I don't know if you were here but there was the rather provocative submission that he made to me that if we are concerned with people hitting people over the head with hockey sticks, why wouldn't we be concerned with people who are engaged in character assassination?

Mr. Nixon: Did you concern yourself at the time with the possibility of a charge?

Hon. Mr. McMurtry: No, we had no information. My reply was simply that one may be more serious from a moral sense, but there is a clear division between criminal and civil law. Mr. Greenwood had access to these matters in relation to the Ontario Provincial Police investigation and if there was any evidence to warrant the laying of criminal charges this would have been brought to my attention. That would have included the charge of public mischief.

Mr. Nixon: There was no such evidence.

Mr. Greenwood: There was no evidence—

An hon. member: Here we go!

Mr. Greenwood: —in my opinion, that would warrant the laying of any charges arising out of the investigation.

Hon. Mr. McMurtry: But I think it should be said there was evidence of gross stupidity. There was evidence—certainly if the affidavit of the mayor's—

Mr. Nixon: That's not a criminal offence.

Hon. Mr. McMurtry: No, and if the statements contained in the affidavit of the former executive assistant to the mayor were true, then there was certainly evidence of improper conduct—I am not suggesting criminal conduct, but improper conduct. Because the executive assistant to the mayor swore an affidavit—he's a doctor—

Mr. Nixon: Who, the executive assistant?

Hon. Mr. McMurtry: Yes—and stated, I gather from conversations, that from his knowledge of the matter as serving as the executive assistant to the mayor, that the request for the inquiry was motivated by political partisanship and not motivated by the best interests of the community. Now, that was the gist of the affidavit.

I think that this is a matter that understandably is of some concern to Mr. Gregory, but it is not tantamount to a criminal offence, and although Mr. Gregory disagrees and feels that might well be considered something of a criminal nature, we are just simply pointing out to him that regardless of the morality or immorality of it, the impropriety could not constitute a criminal offence insofar as the information we had, and therefore our interest was only related to matters that could be considered to be criminal misconduct.

So I just say again, in fairness to Mr. Gregory I think it should be understood that the nature of his concern personally is understandable in the circumstances.

Mrs. Campbell: Could I ask a question? We dealt with the decentralization of the Crown attorney function in the Metropolitan Toronto area and I have assumed, rightly or wrongly, that that is as it pertains to the provincial courts criminal division. What is the situation insofar as the provincial courts, family division, is concerned?

Mr. Greenwood: I'm afraid I'm not qualified to deal with the family court situation.

Mr. Chairman: I know I was the one who trespassed. I thought the decentralization was a very broad topic here and properly under this vote. Perhaps we could get an answer to the—

Mrs. Campbell: We can't get it if we don't have somebody here who knows the answers.

Mr. Callaghan: The decentralization of family courts is not part of this programme—the decentralization of the Crown attorneys office.

Mrs. Campbell: I'm talking about the Crown attorney system. As I understand it we have the same kind of Crown attorney in each court.

Mr. Callaghan: Right.

Mrs. Campbell: I'm just wondering about what you do in view of all of the lengthy discussions about the Crown attorney and

his position vis-à-vis Jarvis Street; what you've done about him vis-à-vis the whole Metro area. Have you solved the problem? Do you have a Crown attached permanently to Jarvis Street?

Mr. Callaghan: No, we don't. We don't have him attached permanently to any family court. He's available in all the family courts.

Mrs. Campbell: Would you be inclined perhaps to take a look at that function, in view of the fact that it's very difficult, because—Am I boring you, Mr. Callaghan? You seem to be a little upset whenever I mention the family court. I'm sorry but it happens to be—

Mr. Callaghan: Not in the least. I'm always interested in your questions, Mrs. Campbell. They're really helpful.

Mrs. Campbell: In view of the fact that when you are trying to establish your proceeds court—and there is where you get your real justice to people in the family court, in my opinion—it's helpful if you had a Crown who would be available to assist in greater measure than he was able to when he functioned on a one-day-a-week basis. He might be able to find out something about the cases coming before him, something about the witnesses that were to be called, so that there wouldn't be the kind of miscarriages of justice, in my view, by the delays which occurred because he didn't know what witnesses would be available and so on. It seemed to me that it would be useful if he were there on an ongoing basis. I understand now, at least there are two proceeds days in that court, is that correct?

Mr. Callaghan: Yes, but I think it should be pointed out that they are available when they are requested—we have in fact been told by the family court they don't want the Crown around all the time. They prefer to do it on the basis that we're doing it now. They don't like to see the Crown there because it brings in the element of criminality and the family courts are trying to avoid it. So we provide the service they request which is on a calling-in basis.

Mrs. Campbell: Is that generally or is it having regard to the proceeds judges?

Mr. Callaghan: In general—generally available right across not only Metro but Ontario, because the family court do not want their court turned into a criminal court.

Mrs. Campbell: That I think is admirable, but at the time that I was concerned there was a great need to have someone on an ongoing basis in these proceeds in order to try to carry out the administration of that court. When you had cases put on a list and you couldn't reach them even by sitting until 10:30 at night and you would have to put them over for four months, it was a miscarriage of justice which often the judge was criticized for when it was the system itself.

[4:45]

Mr. Chairman: Okay, I have a few questions on this vote still.

This vote goes up and down like a yo-yo over the years on the straight financial picture. If you take a look at 1974-75, \$1.7 million was the actual expenditure. Then it jumped in the estimates to \$2.3 million and the actual expenditure was \$2,224,000; that was a considerable leap from one year to another. Now this is one of the few votes that is back down again—no, it is up slightly, at \$2,362,000. Is there some explanation of why this variation in this vote?

Mr. McLoughlin: I would have to go back and look at the 1974-75 figures; I don't have them here. There has been staff added which would probably be the main cause of any increase. In the Crown law office their largest expense, of course, is salary, for the legal offices.

Mr. Chairman: There are 33 lawyers in the office now. Is that correct? Well, perhaps you can give me some explanation as to the addition and the —. One further question on this: You handle what is called complex prosecutions. Do you bring outside counsel in, either on the civil or criminal side?

Hon. Mr. McMurtry: No.

Mr. Chairman: As chairman of this committee, I am going to give myself certain elbow room at this point. The matter I want to discuss now has something to do with bail and you could either bring it under here, or bring it under the next vote; you could bring it in any number of places. Since I have a fair amount of stuff on the next vote, I thought I would, with your indulgence committee members and the minister, launch into it now.

I want to give to you some photostats—

Interjections.

Mrs. Campbell: These are the bail cases. I am generalizing because we have already had discussions about these matters.

Mr. Chairman: This is a letter and I thought we'd better have it in front of us. You can see there are a number of cases here and they all have to do with bail in various situations. The letter was supplied by the Quakers, by the Canadian Friends Service Committee. Margaret knows about it and I trust the Attorney General knows about it, I am not aware that he does particularly. Some of these cases are fairly notorious; I just make reference to the letter.

They start on the "Quaker action on prisons—bail"; a corrected letter from Ruth Morris to Scott Young, dated August 31, 1976. She has directed this letter to Mr. Young:

"Three cheers for your excellent and much needed column today, 'Jail Not Justice.' You have laid bare a problem we have also been exposing as best we can through our Quaker prison committee and personally I feel it is very important that the subject be pursued till the public grasps that these are not isolated cases. Our work in the Don and Milton jails and our court watching indicates that while there seem to be no clear current studies of waiting times for trial, waiting times of four to eight months for those incarcerated are more or less standard in Toronto, while for those on bail but still restricted by weekly reporting and other geographic limits and difficulties 1½ to 2½ years seems most common."

Then she mentions the American 120-day rule—which I have misgivings about, I may as well be frank—the business of the courts being clogged to the doors, and they are more clogged in some of the states in the United States such as New York than they are here. And the fact of some notorious criminal, by way of delaying tactics and whatnot, forcing it over the 120 days and then walking away scot-free doesn't really very much appeal to me. So I think that particular nostrum will have to be scouted.

Then she goes on though: "Some such provision would be a simple way to cut through the endless bureaucratic excuses which lead to our present costly and disastrous backlog." From here on in these estimates I suppose we will be listening to the word backlog until we begin to backlog.

Mr. Callaghan: Are we on vote 1206?

Mr. Chairman: Well no, I said I was giving myself some leeway in dealing with bail.

Mrs. Campbell: On a point of order, Mr. Chairman—if you'll put on your other hat!

I wonder whether this is the correct vote for this. I had assumed, perhaps erroneously, that this would be in the court vote and not in this vote. Because I had the same letter.

Mr. Chairman: Well the chairman has taken the position that the Crown law office covered criminal and civil jurisdiction in a very broad way, and that the numerous problems of merger, administration and what-not of the courts was adequate fuel to that particular ointment and that this was as good a place as any, so to speak, to deal with it. Now if there is any objection I shan't push it, I shall wait until the next vote.

Mrs. Campbell: Mr. Chairman, as far as I am concerned I think it has to be pushed, and if it is your feeling that this is the appropriate place I am not going to oppose it. I was just caught by surprise, as it were, because I thought it came in the next vote.

Mr. Chairman: My feeling is that in the past in the Attorney General's estimates under this particular heading a lot of stuff has been brought in.

Mrs. Campbell: Okay.

Mr. Chairman: I don't say it is appropriate. I say it is not inappropriate.

Continuing then on the letter, she is saying that the backlog is costly and that thousands of dollars of highly salaried time and skill are engaged merely in setting dates. "The cost to the public in holding accused persons in custody long periods is of course also great; and, of course, greatest of all, though incalculable in monetary terms is the cost to accused persons and their families in these prolonged waits and repeated postponements. There is very real psychological torture when you have waited six months for trial and then have firm trial date postponed five times as happened recently to Michael Martin (see enclosed materials). After all this, he was acquitted on both charges he has been tried on, but even if the system offered it, there can be no compensation for his having spent six months in jail awaiting trial on these charges.

"The entire pre-trial system desperately needs sane review. When I read recently the front page report in the Globe of the man with a record of conviction on both robbery and child molestation, with two or three charges of child molestation, who was released on his own recognizance without even bail, I was perhaps even more disturbed than the average hardline member of the general public. While released, he molested several

other children, but what struck me about it is the total lack of any consistency on the part of the JPs," and we will be dealing with that, "who appear to me to be very inadequately qualified for the heavy responsibilities of their offices. This case where a man obviously dangerous was carelessly released will be used as an excuse by all the hardliners to keep so many of the ones in who should not be denied bail. Here are a few examples recently—"

And these are the examples I would like to spend a few moments discussing with you, seriatim.

The Michael Martin case. First of all, do you know about it, Mr. Attorney?

Hon. Mr. McMurtry: I recall the case, yes and this is the subject matter of the discussion that I had with the Canadian Friends Service Committee in the presence of Mrs. Campbell.

Mr. Chairman: I am not going to read it. I've provided the material so that you could peruse it. He spent six months in jail prior to his acquittal.

I wanted to do this—and I haven't photo-stated this—in continuity of that and a letter of October 15 from the Quakers. They said:

"There's another postscript to the Mike Martin case and I enclose the following details."

I won't read the rest of this. It's directed to a number of people in our caucus.

"We are enclosing all papers previously written about Mike's case in the event that you have not received them. Mike's last court appearance was to have been October 13 for the remaining charges in Halton county. These include three, I think; false pretences and one failure to appear. These have been remanded from July until October 13 so that the judge before whom the initial false pretences charge was heard could hear the remaining charges.

"All evidence in the false pretences charges was presented to the Crown over the objections of the defence at the first trial. Restitution has been paid in all the charges. There is one further false pretence charge in the Peel jurisdiction. This was included in the restitution.

"All these charges are interrelated with Mike's business relationship with his ex-business partner, which was the focus of the major fraud charge. Mike has been out of custody awaiting these trials on some form of personal recognizance, a promise to appear

undertaking, and has been trying to establish his business during this time.

"He returned for what he had hoped would be the last go round on these charges from business in Vancouver and Calgary and before the trial started on the 13th there was some question as to whether or not the charges should be dropped since all the evidence had been heard during the previous trial in which Mike had been acquitted and since restitution had been paid. This option was not taken by the Crown.

"When Mike and his lawyer returned after the remand period they discovered when the case was called that it was to be remanded for a further six weeks until November 25." Incredible remands.

"The reason given was that the presiding judge was not satisfactory to the Crown and the other judge did not have time until then."

I trust that is not true and I would like an answer to it. Does the Crown go shopping among judges? It's all right for the defence to do that, but does the Crown go shopping among judges? Where is the impartiality? Where is the neutrality of the Crown if this statement is correct?

Mr. Callaghan: I think it's unequivocally wrong. Those are allegations that are just unsubstantiated with reference to Crown attorneys of this province.

Mr. Chairman: "Mike is understandably frustrated since he has been denied the opportunity to have these charges dealt with and he must once again rearrange his life to the convenience of the Crown. He wonders how many times he must be acquitted on the basis of the same set of facts before he is to be allowed to live again as a normal citizen.

"One cannot help but wonder why the judge was changed at this late date, but wonder if the fact that this judge had already acquitted him once on this set of factors was a factor." It goes on on other matters.

I would be interested in hearing the reply of the Attorney General on the situation here.

Hon. Mr. McMurtry: In respect to what? There are a number of things—

Mr. Chairman: With respect to all things. Take them one by one.

Well, first of all, weren't all the charges tried in one locale? Why weren't they all brought together?

Hon. Mr. McMurtry: Excuse me just a minute, a point of clarification. Mrs. Campbell, was it Mike Martin that was in with us or another person?

Mrs. Campbell: Yes, it was Mike Martin who met you.

Mr. Chairman: Why weren't all the charges tried together, first of all?

Hon. Mr. McMurtry: I can't tell you at this particular point in time. If you—

Mrs. Campbell: Could I ask a question on this while we're pondering it? Could the Attorney General, or would he wish to, express an opinion on what, beside the backlog situation and the endless delays, what seems to me to be a very real problem? That is that in so many of these cases the charge arises—and I think this was a part of our discussion—it arises as between two separate civilians. In the case of Michael Martin, a partner. In the case of someone else some hotels laid charges.

[5:00]

Does it strike the Attorney General as rather strange that what they're developing here appears to be that bail is given very freely where the person is charged with an offence which might endanger members of the public, but when it comes to charges which are really between civilian interests there is no such consideration? That is part of the basic theme that I read into this.

Hon. Mr. McMurtry: I don't see that, and certainly that's not been my experience insofar as the information I have. After your visit there were some inquiries made in relation to the Martin case. While myself I can't really recall now just specifically what information

we have, we may be able to obtain something overnight and we'll try to do that. With 5 o'clock having arrived, perhaps you can go at this again.

When are we meeting, at 10 o'clock tomorrow morning?

Mr. Chairman: Oh, are we knocking off at 5?

Hon. Mr. McMurtry: Yes.

Mr. Chairman: Oh, I didn't realize, okay.

Mrs. Campbell: I thought it was 6 too.

Hon. Mr. McMurtry: I didn't establish that schedule. As a matter of fact, I said at the time it was established I would be prepared to go longer, but having been told by the chairman that that was the schedule I made some appointments back in the office.

Mrs. Campbell: If I may just remind you at that point in time you did ask for a follow-up by the Canadian Friends Service Committee with details of other cases, and said that you would look into them, but that was one of their concerns expressed there.

Hon. Mr. McMurtry: Yes, and I don't think I received a followup.

Mr. Chairman: With the Attorney General having these several cases before him, perhaps he could look at them overnight and when we meet again tomorrow after question period, we may be able to do it much quicker.

The committee adjourned at 5:02 p.m.

CONTENTS

Wednesday, November 3, 1976

Administrative services programme	S-2689
Programme planning and evaluation, systems development	S-2689
Guardian and trustee services programme	S-2691
Official Guardian	S-2691
Public Trustee	S-2697
Supreme Court accountant	S-2706
Crown legal services programme	S-2707
Crown law office	S-2707
Adjournment	S-2718

SPEAKERS IN THIS ISSUE

Campbell, M. (St. George L)
 Gregory, M. E. C. (Mississauga East PC)
 Lawlor, P. D.; Chairman (Lakeshore NDP)
 McMurtry, Hon. R.; Attorney General (Eglinton PC)
 Nixon, R. F. (Brant-Oxford-Norfolk L)
 Sandeman, G. (Peterborough NDP)

Ministry of the Attorney General officials taking part:

Callaghan, F. W., QC, Deputy Attorney General
 Greenwood, F. J., QC, Assistant Deputy Attorney General, Criminal Law
 Hilton, J. D., QC, Assistant Deputy Attorney General, Common Legal Services
 McLeod, R. M., Senior Crown Counsel, Criminal Appeals and Special Prosecutions
 McLoughlin, B. W., General Manager



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Morning Session

Speaker: Honourable Russell Daniel Rowe

Clerk: Roderick Lewis, QC

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CONTENTS

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LEGISLATURE OF ONTARIO

SUPPLY COMMITTEE

THURSDAY, NOVEMBER 4, 1976

The committee met at 10:10 a.m.

ESTIMATES, MINISTRY OF NATURAL RESOURCES (concluded)

On vote 2304, resource products programme; item 2, forest management:

Mr. Chairman: I now see a quorum, so we will begin with Mr. Haggerty.

Mr. Haggerty: I have to find my notes, Mr. Chairman.

Mr. Reid: Mr. Chairman, while we are waiting for Mr. Haggerty, I wonder if Mr. Lockwood has those figures I requested yesterday. Were you able to put them together or will they be sent to me?

Mr. Lockwood: This is in respect to the infractions?

Mr. Reid: The which?

Mr. Lockwood: In respect to the infractions?

Mr. Reid: Well that, but the size of the timber licences.

Mr. Lockwood: Yes, we have that. I can give these to you now. The Great Lakes Paper Company, 9,040 square miles; Kimberly-Clark 7,326; Ontario-Minnesota 6,904; Dryden Paper Company 6,872; Spruce Falls 6,291; and E. B. Eddy 5,335.

Mr. Chairman: Mr. Haggerty.

Mr. Haggerty: Thank you, Mr. Chairman. I think I could sum up my remarks as reading an item from the Canadian Institute of Forestry and Ontario Professional Foresters Association. It is their press release of August 27, 1976, and it says:

"Political action will be required to get provincial and federal governments to properly assume their responsibility toward the maintenance of Canada's forests. Canada's Coniferous Forest—A Growing Challenge, was

the theme of the joint meeting of the Ontario Professional Foresters Association and the Canadian Institute of Forestry in Thunder Bay on August 22nd to 26th; and noted international speakers were involved from Sweden, Finland and the United States. Dr. B. K. Steenberg, FAO, of Sweden, past Director of Forestry, challenged Canadians by stating that while Canada had the greatest potential to help meet the future world demand for wood, it was an unfortunate fact that intensive forestry practices are lagging. Dr. S. E. Appelroth, of Finland, pointedly stated that on the basis of the total forest land, Canada's expenditure on intensive forestry programmes is very meagre compared to that of Finland."

I suppose what he is saying is that we haven't done too much in the line of reforestation.

"In particular, the joint meeting pointed toward the growing depletion of Canada's forests, largely caused by a lack of initiative and incentive to provide for a higher degree of utilization and regeneration of the forests. The need for advancement and progress in technology pertinent to the full utilization of current waste material is also stressed."

That's the point; I thought that in all our discussions here dealing with the minister's estimates, there has been very little discussion on the matter of waste material. What is the government doing in recycling of waste paper? By all reports, as was suggested yesterday by the ministry staff, there are some two million acres of reforestation that are a backlog—two million acres. Going through the reports and statistics I have here, there was a year—1973, on which there is no record, I guess, on the number of acres required for reforestation in that particular year. Maybe that's the year of the jump to two million acres that require reforestation; that was based upon your 1972 programme, that you were going to have so many years and that every year you are supposed to pick up so many hundred thousand of acres of land for reforestation. But my point is what are we doing on recycling? Surely there are employment opportunities in the recycling field too. If we are going to have a shortfall of forest

products by the year 1980, then I think we are going to have to look to recycling more than anything else. If you haven't got a second forest coming on—and I doubt that; from what I have seen up there it will be about 50 years before I can see that—

[10:15]

Hon. Mr. Bernier: That's not totally correct. We have an excellent second forest coming on.

Mr. Haggerty: Yes, but how many years away?

Hon. Mr. Bernier: It is on a continuing basis.

Mr. Haggerty: Give me one you are going to be cutting next year.

Hon. Mr. Bernier: Trees that were planted years ago are coming on now. There are many plants in Ontario now that are cutting trees that were planted 50 and 60 years ago.

Mr. Haggerty: How many sites do you have on that particular thing and what paper industry is responsible?

Hon. Mr. Bernier: They spread right across the province, in different areas. For example, the Dryden Paper Company itself was established in 1913 and they are going back to areas that they originally cut in that particular year.

Mr. Haggerty: I imagine that's up in the area where you are talking about the 18,000 square miles then.

Hon. Mr. Bernier: No, it would be south of there.

Mr. Haggerty: As you get further north I suppose you are not talking about 70 years for a second crop, you are talking maybe 150 years.

Hon. Mr. Bernier: It all depends on the species. With jack pine I guess we would be looking at about 75 years, maybe spruce—80 or 90, that kind of a span in that area which we refer to as the Reed Paper area, north of Red Lake. I think that's the eyeball figure that they are looking at for a turnover. But maybe Mr. Lockwood would like to comment on the recycling aspect. I am sure if the two million acres is that defined. Maybe you want to comment on that, Jim.

Mr. Lockwood: I don't think that I intended to endorse the two million acres figure last night. If I did, I was befuddled.

I think the message I was trying to get to Mr. Reid was that we have said in our reports that in our view we are regenerating one-third of that which needs to be regenerated. Nature is regenerating approximately a third and there is a third that is being untreated. I think somewhere somebody must have taken the figure of 100,000 acres and multiplied it by 20 to get the two million.

There is no doubt in my mind at all that when areas of a few of the boreal forests or any other part of the St. Lawrence forests are cut over that nature does in fact regenerate these areas. There is a delay in bringing these areas back to their fullest productivity by virtue of the fact that we are unable, at least as of now, to supplement nature's reforestation programme by artificial regeneration. I certainly did not intend to support the figure of two million acres, however that was arrived at.

Mr. Reid: Mr. Chairman, since Mr. Lockwood has raised that I wonder if we could deal with it for a moment. Maybe we could just go over some of the figures.

Could you tell me once again—the annual cut in the last year has been between 300,000 and 500,000 cunits, did we say? Or what figure did we arrive at?

Mr. Lockwood: I think we are talking acreage, Mr. Reid. The estimated area cut in 1975-76, for example, 486,000 acres—I am going backwards here, I am sorry—in 1974-75, 476,000; in 1973-74, 474,000.

These figures I am quoting are the figures that we get by talking to our district and regional people and using their estimates of what the companies propose to cut in those years and then we use those figures of acreage to develop our implementation schedule for meeting the 1982 target which, you recall, is to double the amount of regeneration by artificial means which we are presently doing.

Mr. Reid: Mr. Lockwood, is it fair to say, since either by artificial regeneration or by natural regeneration, we are reseeding or replanting roughly two-thirds of the cut and if we take a figure of 450,000 acres per year on an average for the last four or five years—I realize it varies slightly—we are falling behind in the last four or five years by some 150,000 acres—just in the last five years? Your programme to double didn't go into effect until the last couple of years. You have had extensive forest fires well above the norm. I realize the forest fire may add to the natural regeneration because of the effects

of the burn, but in some cases it might not because of the soils and so on. If we're roughly 750,000 acres over the last five years—I know these are only ballpark figures—starting with the premise, as your own reports did, that we were far behind—in 1968 when I first did these estimates I suggested 100,000 acres that year and Mr. Brunelle didn't disagree with me at that time. We are certainly getting up into millions of acres which aren't being regenerated.

Mr. Lockwood: If you accept the fact that a third of the 450,000 acres simply do not regenerate to anything and if you multiply that by 20, I suppose you come up with two million. If you multiply that by 30 you come up with another figure. Surely, the point at issue is what are our efforts to regenerate the forests which need to be assisted artificially? What are these? How far along are we? When will we reach the goal which we have set out to accomplish; that is to regenerate by artificial means all those acres which need to be assisted in that way? Our report says our goal is to do this by 1982.

Mr. Reid: Your other reports say that policy is already outdated. I think you agreed yesterday that if the planned expansions plus the cut that we have now are going to be used in the 1980s, your own reports indicate there's going to be a shortage of wood. Where the earlier reports indicated there would be a shortage of wood in the year 2020, now your reports are saying in the 1980s.

Mr. Lockwood: Mr. Reid, there is an area of confusion there, I'm sure. What you're seeing is the 1972 report—which incidentally says 1974 but actually was produced in 1972—which was premised on an industrial growth rate of around three to five per cent per annum. This is roughly the rate at which they were increasing their harvest in the forests.

By the time we got into the second year of the implementation of that particular report we had the largest industrial expansion in Ontario that we have seen in probably 30 or 40 years. The fact that these plants were going to come onstream by 1978 indicated to us clearly that that 1972 report was already out of date; or would be out of date. We had to get with it and bring it up to date based on the stated demands of these new facilities for wood. Consequently the increased acreage was cut to keep their mills going. What you are seeing is a revised forestry production policy which reflects the increased har-

vesting which will take place because of these industrial expansions coming on stream. We have not, as of this moment, gone forward with plans on that report.

Mr. Reid: Mr. Lockwood, you are being very careful and I realize you have to, but last night and again today, are you able to tell me when you foresee at present rates—or do you foresee a shortage in species for the pulp mills and saw mills in the province of Ontario? Have you got that information? Can you take a guesstimate?

Mr. Lockwood: I do not foresee a shortage of wood for the pulp mills in Ontario.

Mr. Reid: In a way you are contradicting yourself, because you are telling me that you don't know how much you haven't regenerated; you then tell me that you don't know what's available. The minister has said we don't have a complete forest industry inventory. I think in part this is a responsibility of the federal government, because they are getting the taxes and they probably have more resources. But it's almost incredible that we don't have a complete inventory of the forests in the province of Ontario, given the impact economically, if nothing else, on the province of Ontario.

Mr. Lockwood: Mr. Reid, we do have a complete inventory of the forests of Ontario. It is our view that we need to have a better inventory and we feel we should do that immediately. The inventory we are operating on is roughly 10 to 20 years old. We feel it is not adequate and as a result of that we have, over the last two years, greatly intensified the rate at which we are re-inventorying the forests of Ontario. We do have a forest inventory and from that forest inventory we have an allowable cut calculation.

Beyond that again, on every licensed area, with every company licensed and every Crown management unit, we have a more sophisticated evaluation of allowable cut which comes through the management plan development system. When the management plans are developed, we do operational cruising, which is much more detailed than the forest resources inventory. Here again, we have an allowable cut calculation based on the area for which that plan is developed. The wood that industry is dependent on now, and will be dependent on for expansions that are proposed or in place, is already on the ground. The thing we need to worry about, where we are dealing with 60-year, 70-year or 100-year rotation, is this—do we want to maintain that industry beyond the time the presently-mature and over-mature forests have

been harvested? If we do want an industry which today is worth \$1.2 billion then we have to reforest those areas that are cut over.

Mr. Reid: Mr. Chairman, if I may. I take it, Mr. Lockwood, that you would repudiate the figures in the revenue statement that I have read into the record twice? I wonder, would you do that? You don't agree with the conclusions in the timber revenue statement?

Mr. Lockwood: I don't accept that particular forecast, but I don't know which section you are reading from, Mr. Reid.

Mr. Reid: I think last year in the estimates the minister said:

"With present utilization standards, the total round wood demand in Ontario would require 100 per cent of the soft wood and about 70 per cent of the hard wood allowable cut. Consequently, our forest management efforts must be greatly intensified."

On August 30, 1976, the Ontario Professional Foresters, who have as members some staff from the Ministry of Natural Resources, held their conference to present information on the rapid depletion of Ontario's forests and the urgent need for improved management resource renewal. There are all kinds of figures here that they provide. But, you're not providing any for us to prove your side of the case that in fact we're not running out.

[10:30]

Mr. Lockwood: I believe that we can produce those figures, as I say, in terms of the inventory and the management planning process which we have in place. The evaluation of the management plans themselves and of our inventory does not indicate the scarcities which are being spoken to.

Mr. Reid: It sounds like everybody else seems to be wrong. Can you give us any indication, because we've heard varying statistics, of the survival rate of the actual artificial regeneration that in fact is done? I realize that it varies from place to place. But, is it not a fact that anywhere from one third to 50 per cent of the artificial regeneration is not successful? The survival rate is only about 50 per cent, on an average, of what is planted?

Mr. Lockwood: It does vary. We published a report in 1974 which was the best assessment at that time of the survival. I have that report here and can make it available to you. It indicates figures, such as the average survival rate of planted spruce being 62 per cent. The survival rate, as I recall it, of the container stock was deplorably low at 33 per cent.

We are moving and have been moving, in my view positively, to deal with the container stock situation, because that was more of a mechanical process than anything else. We found that the type of container that we were using actually strangled the roots of the little seedlings, and that accounted for our failure. When we found this out we stopped and have started to work on other types of containers that will do a better job. We have some reservations about the statistical accuracy of that report we published in 1974, but that was our best estimate of survival rate.

Mr. Reid: Can you give me some idea of the budget under forest management? What percentage of that, or what dollar figure is involved in the tending of the forests? I think a lot of people have the idea that you just stick the seedling in and then leave it. But, obviously there's a great deal of tending and culture to that. What part of the budget goes for the tending of the already-planted forest as opposed to going into a programme of planting original seedlings?

Mr. Lockwood: In 1975-76, out of a budget of \$30.9 million, we spent \$17.1 million on silvicultural operations and support activities tied into that. We do have a process called tending which is a minor part of our programme. On tending in 1975-76 we spent \$759,000.

Mr. Reid: By tending do we mean that we were checking on the seedlings, were pruning, and were weeding out?

Mr. Lockwood: And spraying, yes.

Mr. Reid: Just to come back to one thing, Mr. Lockwood, am I correct when I say that in the last few years we have been going behind, if that's the right way to put it; that we have not been, either artificially or naturally, regenerating the forest at an average of about 100,000 acres a year?

Mr. Lockwood: Have not been?

Mr. Reid: Have not been.

Mr. Lockwood: We have been in excess of that, Mr. Reid.

Mr. Reid: I realize what you have done. It's been averaging between 150,000, and to be generous, 200,000 acres. But, at the same time every year there are between 100,000 and 150,000 acres that have not been either artificially or naturally regenerated.

Mr. Stokes: One-third, they admit it.

Mr. Haggerty: It hasn't been kept up to the cut-overs.

Mr. Herridge: Excuse me, Mr. Minister and Mr. Chairman: There is an impression left, in the reciting of all these statistics—and Mr. Lockwood attempted to get at this point earlier—that whatever number one would use, either on an annual or a cumulative basis, as not being treated in any given year, the impression is left that those acres remain bare for all time. The point being spoken to was that nature moves to reforest those acres, which in terms of species and perhaps spacing and numbers are something less than ideal, but there is no way that those acres are going to remain bare or empty of fibre. The consequence of not being able to treat them as they become denuded, whether by fire or cutting, is that they will not be restocked as quickly or necessarily to the desired level of stocking or of species as one would have liked; but they will, in fact, carry a fibre load into the future. So the impression that we are creating deserts or parking lots by default is in error.

Mr. Chairman: Have you concluded your remarks, Mr. Haggerty?

Mr. Haggerty: Apparently I have.

Mr. Stokes: I want to get back to something that was said last night where certain members of this committee tried to create the impression that this party was against the creation of jobs and that we were carrying on a personal vendetta against Reed Paper.

I have never, anywhere, to my recollection, suggested that Reed Paper should be denied the right, as a company, to share in the utilization of excess fibre in our forest. What we have said and continue to say is that in the absence of an overall forest management policy, we should step back and take a look at where we are going with regard to adequate forest management and good husbandry of our resources before we let the last vestige of a boreal forest slip from our hands. We are in good company, Mr. Chairman, because I want to read into the record a letter that was sent to me by the president of the Ontario Professional Foresters' Association dated September 7, 1976. It is addressed to me, and I quote:

"On my return to Thunder Bay on Friday afternoon I was informed that one of your members had stated publicly there was a marked change in the views of the Ontario

Professional Foresters' Association in regard to the Reed application for additional timber limits. I have said directly to Treaty No. 9 representatives and Reed representatives, on two taped radio interviews and to the Toronto press, that I do not favour the granting of additional timber limits to Reed at this time. The reason given in each case was that the Ontario Ministry of Natural Resources is not geared, staff-wise or financially, to take on the extra burden of an expanded Reed operation from the regeneration and fire protection point of view."

"As you know, this association went to considerable time and expense to draw to your attention that the ministry is already overwhelmed with its work load and to solicit the support of all parties to bring about the needed change in legislation to correct the situation. As I stated repeatedly during the two-day session in Thunder Bay, this association is intended to be non-political and it is my intention to see that it remains so during my term of office.

"I welcome the opportunity to discuss forestry problems with all interested persons. As for more hearings, investigations, commissions, studies and what have you, as your party has proposed, I would suggest that we, as citizens, of Ontario would benefit if we started to apply in that field what has already been learned."

Just to digress for a moment, I have spoken to the Ontario Professional Foresters on four occasions over the past three years. I spoke to the joint meeting of the Canadian Institute of Forestry and the Ontario Professional Forestry Association at which time I said exactly that—that the professionals should be allowed to manage the forest. That was my reference to the mandarins and the bureaucrats when I led off during these estimates. All I was doing was reiterating what the professionals themselves were saying, that they should be allowed to manage.

To get back to the letter:

"Stated otherwise, more hearings etc., would, in my opinion, serve no useful purpose. I trust that all those of you who were able to visit us in Thunder Bay have all returned safely to your place of work and will exert your efforts to help us improve the state of Ontario forestry."

That is the reason I am here, trying to improve the state of our forests.

Mr. Reid: Were you concerned when Kimberley-Clark got its additional 6,000 square miles?

Mr. Stokes: I am always concerned with the state of our forests.

Mr. Yakabuski: Did you insist on a similar study? No!

Mr. Reid: Did you request the same sort of study?

Mr. Stokes: I am always concerned. If you will go back—

Mr. Yakabuski: Did you want to stop it? You are talking about stopping it now. Your leader said that yesterday—stop it.

Mr. Chairman: Mr. Stokes has the floor.

Mr. Stokes: I submit to you that until such time as we collectively come up with an overall forest management policy we shouldn't be looking for more areas to exploit; not until we put our house in order.

Mr. Yakabuski: Did you say that when Kimberley-Clark got the additional 6,000 acres?

Mr. Chairman: Order, please.

Mr. Stokes: I am not answerable to you because you, as the parliamentary assistant, have a lot to learn with regard to forestry. You might know a little bit about what goes on on the periphery of Algonquin Park but you have a lot to learn about what is going on in the forests of this province.

Mr. Yakabuski: I know a hell of a lot more about it than your leader, because he doesn't know a jack pine from a balsam. It says so in the Globe.

Mr. Chairman: Order, please.

Mr. Stokes: Quoting the minister? I want to remind you—

Mr. Yakabuski: I am quoting from the Globe.

Mr. Stokes: And they are quoting the minister.

Mr. Chairman: Order.

Mr. Stokes: I want to suggest that you don't have to know all about every species, about the proper rotations and everything else to be concerned about the most valuable resource in our province.

I want to go on and quote yet another source which backs it up. This is signed by a professional forester. It is sent to Mr. Andrew Rickard, chief of Grand Council Treaty No. 9, in Timmins.

"Dear Mr. Rickard:

"I have just read your proposal for an inquiry into resources development in Ontario north of the 50th parallel submitted to the joint steering committee of the Ontario government.

"Needless to say, I agree with you wholeheartedly. I know very well what your problems are and those of the field of forestry in general. I am giving you full support because I think our problems are mutual.

"In your brief, you are suggesting community meetings to give the people of the north an opportunity to express their views about resource development. The problems of the north and the problems of the northern forest ecosystem, about which I think I know something professionally, are problems of all of us and should be exposed and tackled jointly."

Now that's a person who is just as knowledgeable as anybody in this province. You'll have to take my word for it because I'm not going to divulge his name for obvious reasons.

[10:45]

So the position that I have taken consistently, since 1968, is completely in keeping with what these people are saying, people who are professionals in the field in the year 1976.

Now, I have listened very carefully to what Mr. Lockwood and Mr. Herridge have said in their attempts to come to grips with the problem. By their own admission, their inventory is from 15 to 20 years out of date. They are the first ones to admit it. I suggest to you that the way you managed this resource on behalf of the people of the province of Ontario wasn't appropriate or adequate even five or 10 years ago, by your own admission, because of the expansions in the industry. It's quite obvious, even to people in the ministry, that you're going to have to step back and take a look, for the obvious reasons that we've been explaining over the last several days now, at an overall forest management programme.

Right now you don't have one; let's face it.

It has also been suggested by certain people in your ministry that it's impossible to put an overall forest management programme in place until you get one for the entire province. Now I suggest to you that's entirely inappropriate. Because what goes on in the Algonquin Park area and what goes on in the Great Lakes-St. Lawrence forest, where the climatic conditions, the soil conditions and the species are much different

from the boreal forest, means that you can't come up with an overall forest management programme. You have to deal with each particular site and each particular species, having regard for the ecosystem that you're dealing with directly. I suggest to you that what might be appropriate in Algonquin Park is not appropriate for the 19,000 square miles we're talking about with regard to Reed Paper.

You have already stated that in your regeneration, which is less than adequate and you people have admitted it, you're going to have to double, at least, what you're doing with regard to reforestation and silvicultural practices just to meet the anticipated demand with the present utilization.

In 1972 you suggested that your target was 9.1 million cunits. Your own ministry has made a reassessment of the expansions in the industry, where you find that you're going to be at least three million cunits short if you continue on your present course. Because your demand for fibre is not going to be 9.1 million cunits. It's going to be closer to 12 million cunits, so you're going to have to catch up on the backlog that we've been talking about. You know, you can play around with figures, but by your admission at least one third of the cut-over area every year is not getting the kind of treatment it deserves.

Now Mr. Herridge is absolutely right. If wild fire goes over a certain area or if you have clear cutting over a certain area, there's going to be some replacement of fibre, although not necessarily in the most desirable species. A lot of it will grow up in tag alder and species that we're not utilizing or able to utilize. But let me remind you that one of the most recent reports, by someone commissioned by your ministry, said that if we do nothing with a certain area—and let me refer specifically to the one-third of the cut-over area that is going untended or untreated—the best estimate is that if you had 13 million acres of untreated timber for the reasons that you mentioned, you would be lucky if you got 1.3 million cunits from it. Those aren't my figures. You can go back into the studies that were commissioned by your ministry, and that is likely to be the result.

We have 105 million acres of forest land in the province of Ontario and it's been suggested that about 60 million of those acres are likely to produce the kind of results that we would all like, if we give them adequate treatment. Sixty million out of the 105 million acres. If you leave them untended to

the extent that you have in the past, it's going to take 13 million of those 60 million acres to produce 1.3 million cunits.

We can't afford the luxury of allowing those acreages to go untreated as we have in the past. I don't think there's a person in this room who would suggest that we can continue on the present course, given the increased utilization. There's nobody in this province, there's nobody in any party, there's no politician, who would suggest we should eliminate jobs just for the purpose of seeing trees grow. It is a renewable resource. We all know that, if you husband that resource in a realistic way.

Mr. Reid: That's not what your leader says.

Mr. Stokes: That's exactly what he's saying.

Hon. Mr. Bernier: Jack, with all due respect—

Mr. Reid: He said he was going to stop it.

Hon. Mr. Bernier: It's not coming through to me that way, I can tell you that. He stands up in public and says without—

Mr. Yakabuski: I think you two should sit down together.

Mr. Stokes: There are none so deaf as those who will not hear.

Hon. Mr. Bernier: He repeated, one time: "I will block that proposal—I will do everything—the party is opposed to it."

Interjections.

Mr. Stokes: Let me continue.

Mr. Chairman: Order.

Mr. Stokes: In addition to the area that you are not treating, for one reason or another, by your own statistics, in your lead-off you have suggested that we have lost 2.5 million acres by wildfire in the past three years. We're harvesting anywhere between 475,000 and 525,000 acres every year at the present level in order to provide just a little bit in excess of five million cunits.

Hon. Mr. Bernier: Less than that this year because of the strikes.

Mr. Stokes: Yes, it was down to about \$375,000 because of the strikes; but that was, hopefully, an unusual situation. The 2.5 million acres that have been lost to wildfire in the last two and a half years are the equivalent of five years' cutting at the present level.

For all of those reasons, surely it has occurred to you that we can't go on on our present course. I want to remind you that we have three of the major license holders in the province of Ontario now who are really scratching their heads. Yet Mr. Lockwood says that in his opinion there will be no shortage of timber.

Domtar came knocking at your door here about three years ago and said, we've got \$90 million to spend in Red Rock if you can guarantee us sufficient fibre to accommodate that expansion.

Hon. Mr. Bernier: On their doorstep.

Mr. Stokes: Yes. It's common knowledge that about 60 per cent of all of the fibre that Domtar uses is shipped to them as residue from other mills. About seven or eight years ago I quoted figures in this legislature saying that according to the Department of Lands and Forests at that time the allowable cut on the Domtar St. Lawrence limit was about 650,000 cords a year. I quoted that in good faith on the basis of the information that had been provided by the ministry. They allowed me to use it, nobody contradicted me; and yet as recently as three years ago they said their vice-president in charge of woodlands, Andy Fleming, said: We have \$90 million to spend in northern Ontario if the Ministry of Natural Resources could give us the fibre.

I'm told there isn't anywhere near 650,000 cords a year on those limits and that they are going to be hard pressed to keep that mill open unless they can be assured those shipments of fibre from other mills at present levels.

If I'm wrong correct me. I suggest to you that the Domtar licence is going to be in severe jeopardy unless they can have long-term assurances, or unless we can come up with forest management policies that will assure them of sufficient fibre to keep that mill operating at its present rate.

Let me tell you about American Can, another licence holder. Nobody ever suggested to me there was going to be a shortage of fibre, but there too was another operation where 60 per cent of all the fibre that's used in that mill doesn't come off their limits at all; it comes from sawmill operations, from particle-board operations and other operations, some of them 150 to 200 miles away.

The Ontario Paper Company doesn't have a mill in northern Ontario, but they are cutting in northern Ontario and shipping round-wood all the way from the Manitouwadge area down to Thorold to keep that mill going.

We have no objections to that. We have to continue to protect large investments and jobs in the Thorold area. But I just want to know where we stand with regard to—

Mr. Reid: Don't let Stephen hear this speech, Jack.

Mr. Stokes: I want to know where we stand. I'm going by your figures, and as recently as 20 minutes ago Mr. Lockwood said: "No problem; there is no problem. We think we've got a handle on the thing and we'll have sufficient fibre for present users and those on the drawing board."

If I'm wrong because I've used your figures, don't blame me. I'm not a professional forester. I don't have all the experts that you have at your disposal. I don't have all of these forms and documents. But you haven't convinced me you have a sufficient handle on the situation that we can allow the last acre-ages of forest to go under the axe and to be taken up by any company.

I have nothing against Reed Paper, but I don't think you can afford their requirement; and I say that simply because your professional foresters are saying it. If I'm wrong they're wrong; and for anybody to sit in this committee room and suggest that the New Democratic Party is against jobs, they are just being dishonest, if you don't mind.

Hon. Mr. Bernier: You can't have it both ways.

Mr. Stokes: I can have it, I can have it.

Hon. Mr. Bernier: You want it five ways.

Interjections.

Mr. Chairman: Order, please.

Hon. Mr. Bernier: In the Algonquin Park debate you went the same way. You wanted it all ways in the Algonquin Park situation.

Mr. Stokes: No, I didn't.

Hon. Mr. Bernier: You wanted the best of all worlds.

Mr. Stokes: No, I didn't.

Hon. Mr. Bernier: You did. You just can't have it.

Mr. Stokes: As recently as the day before yesterday I questioned the chap who is responsible for the Algonquin Forestry Authority. I specifically asked him, as I asked you when we were discussing the setting up of the Algonquin Park Forestry Authority, I said: "At what point in time

can you see us getting out of Algonquin Park; and when will we have sufficient fibre to make up for what you're taking out of that park, on the periphery of the park?"

You couldn't tell me then and your expert can't tell me now, because I think that you didn't manage the resources on the periphery of the park to the same extent as you did in the park.

[11:00]

It's quite possible that you might listen to those people who use it and see it as a park, rather than employing the multiple-use concept. I don't think there's any contradiction in that.

I'm suggesting to you right now, and I have the support of the professional foresters, that you should sit back to take a look. We've got about 100,000 square miles of forest in the province of Ontario that are under licence, I believe. We're talking about close to 19,000 square miles in the Reed Paper deal. Don't you think it's reasonable and fair that we, as a reasonable and fair critic of yours, should ask you to show us some ability or capacity to manage what is already under licence before you let the last vestige of a forest in the province of Ontario slip from our grasp? I don't think there's any inconsistency in that—

Mr. Reid: Are you suggesting giving Kimberly-Clark extended timber limits?

Mr. Wildman: What did you suggest?

Mr. Chairman: Order, please.

Mr. Yakabuski: The second last vestige.

Mr. Reid: The second last vestige.

Mr. Yakabuski: That has been untouched. Maybe we should go through the same routine there.

Mr. Chairman: Order, please.

Mr. Stokes: Let me just refer, because this is bothering the member for Renfrew South and the member for Rainy River—

Mr. Yakabuski: It is because you want it both ways. And we want it right across Canada, to apply—

Mr. Bain: Hey, who's got the floor, Mr. Chairman?

Mr. Chairman: Order.

Hon. Mr. Bernier: He's trying to bail out his leader; that's what he's trying to do.

Mr. Chairman: Mr. Stokes has the floor.

Mr. Stokes: I want to report to the member for Rainy River, the member for Renfrew South and the minister, who is the member for Kenora, that not one stick, not one solitary fibre of timber from the new licensed area that was referred to earlier has been harvested by Kimberly-Clark.

Mr. Yakabuski: We are aware of that!

Mr. Stokes: Oh, no. You'd have us believe that all the 5,000 acres has been cut.

Mr. Yakabuski: No, no.

Mr. Chairman: Order.

Mr. Bain: Put him on the speakers list Mr. Chairman.

Mr. Yakabuski: We want the same kind of assessment to take place in that area.

Mr. Bain: How many trees do you have left in Renfrew South? You did a fine job there.

Mr. Yakabuski: We've got trees.

Mr. Bain: Yes, but they are in a museum.

Mr. Stokes: I want to report to the member for Renfrew South that about 100 years ago there was a fellow by the name of J. R. Booth—and I think I quoted him in my opening remarks—who said: "We will have more trees in the province of Ontario, more white pine stands, than we can ever use." I want to report to the member, in case he doesn't know, that we have some white pine in the Ottawa Valley, but it's on a private estate.

Mr. Reid: One stand left.

Mr. Stokes: It's either in your riding or in Mr. Conway's riding. Go and take a look at them.

Mr. Yakabuski: I'm aware of that.

Mr. Wildman: It's going to be the same in the north.

Mr. Stokes: That's been the record of the forest industry in the past in the province of Ontario—

Interjections.

Mr. Chairman: Order, please.

Mr. Stokes: I think it's time we stepped back and—

Interjection.

Mr. Bain: And you still have his mentality.

Mr. Wildman: You haven't learned anything since.

Interjections.

Mr. Chairman: Order, please.

Mr. Stokes: I'm trying to be as charitable—

Mr. Yakabuski: Well, I know these Johnny-come-latelies know everything.

Mr. Chairman: Order, please.

Mr. Yakabuski: They've never had a sliver in their finger—

Mr. Bain: Well, you've been here so long, you should have learned something. But you haven't learned anything.

Mr. Yakabuski: —but they know everything.

Mr. Bain: You've been here for years, but it doesn't make any difference.

Mr. Yakabuski: They don't know a damned thing.

Mr. Bain: I learned everything from listening to you, Paul.

Mr. Chairman: Order.

Mr. Stokes: Mr. Chairman, I'm saying—

Mr. Reid: Could we have a little order, Mr. Chairman?

Mr. Chairman: I could, if I had some cooperation.

Mr. Stokes: I'm saying to the minister; to his deputy, Dr. Reynolds; to his assistant deputy, Mr. Herridge; and to the man directly in charge of timber in this province, Mr. Lockwood, as charitably as I know how, why don't you sit back and take a look at the situation? Not as it existed 15 or 20 years ago, but as it exists now. If you can prove to me personally that you have managed the forests adequately over the last 30 or 40 years, I'll be the first one to say to proceed with the hearings with Reed Paper; and, as long as they can make their peace with the native people, who have some prior right to the area under treaty and aboriginal rights, you go ahead.

On the basis of what I have been saying here since I have had the privilege of serving since 1968 and on the basis of your own admission, I think you have a lot of house-cleaning to do before you can put those 19,000 square miles under licence and allow them to be managed as in the past. I am not saying to you, "Stop it." I say you put your house in order and when you've convinced

the people collectively in the province of Ontario that you have the ability to manage those forests, then we take a look at Reed Paper.

Hon. Mr. Bernier: Mr. Chairman, I have to respond to those remarks.

Mr. Stokes: I would be disappointed if you didn't.

Hon. Mr. Bernier: It's been ripping me apart to listen to that rhetoric, really.

Mr. Riddell: Convince him with sweet talk.

Hon. Mr. Bernier: I have always regarded the member for Lake Nipigon as a colleague from northern Ontario who has a feeling for northern Ontario and who has always been very perceptive in his remarks. Hansard will prove it.

Mr. Bain: You just haven't listened, that's all.

Hon. Mr. Bernier: As it relates to the forests of this province, I want to make the record clear that we do have a policy. We do have a policy with respect to our forests and I want to just put it in the record. That policy is to provide for an optimum continuous contribution to the economy by the forest-based industries consistent with sound environmental practices and to provide for other uses of the forest. That is our stated policy. It's there so don't say we don't have a stated policy. That's it.

Mr. Stokes: But you haven't implemented it.

Mr. Bain: You are not living up to it.

Mr. Chairman: Order, please.

Hon. Mr. Bernier: To stand here this morning after the exchange last night—the exchange that has been going on in this Legislature for the last week or 10 days—and for the member for Lake Nipigon to try to bail out his leader, who has categorically stated publicly in this Legislature, to the press and to the public of this province that he will do everything in his power to block any proposal north of Red Lake and Ear Falls. He will definitely do everything. His party is four-square behind blocking that particular proposal—against the \$400 million development that's proposed; against the 1,200 jobs that are proposed—

Mr. Stokes: He is not against it.

Mr. Reid: He said that last night.

Hon. Mr. Bernier: —against every part of that particular scheme. He said it last night.

Mr. Chairman: Order, please.

Mr. Riddell: If you want to change your mind, change parties.

Hon. Mr. Bernier: The record will show it. I recognize the position that the member for Lake Nipigon is in. He knows the feeling of northern Ontario—

Mr. Wildman: Your party knows about that.

Hon. Mr. Bernier: He knows what the situations are. He knows we have to have industrial development; he knows we rely on the resources of northern Ontario for the development. He keeps talking about the amenities, the quality of life we need up in northern Ontario and he knows they come from the resources. He compares continuously the lack of amenities in northern Ontario with what they have in southern Ontario. We have the opportunity here to study that particular area and that's all we are saying. We are saying let's look at it. Let's look at the feasibility and make sure that all the environmental requirements and the forestry requirements to which he speaks so well are in place.

Mr. Bain: You are only doing that because you have been forced to do it now.

Mr. Wildman: What of the agreement?

Mr. Chairman: Order, please.

Hon. Mr. Bernier: There has been no decision to give a licence. There has been no decision to give a licence to Reed Paper Company. There has been no decision at all. We want 2½ years of full public debate, of full public disclosure of all aspects. It's never been done before.

The member for Lake Nipigon never made that request when the Kimberly-Clark proposal was before us, as the member for Rainy River has correctly pointed out; not once. He did make reference to the forestry practices but not to the overall feasibility of the expansion itself; not once. Not one letter, not one request did he ever direct to me.

He was concerned about the infrastructure in the communities—correctly so—and Hansard will prove that he asked questions of the Treasurer (Mr. McKeough) to make sure that the moneys were there for that particular expansion, knowing full well again that the development in that particular area would bring the quality of life that he expects for

his people in his area. There's no question that he believes that and that's the route he's gone.

To come here this morning and try to bail out his leader, I have to say, it's disgusting, it's totally disgusting.

The people of northern Ontario are going to hear about this. The people in this province are going to hear about this—

Mr. Stokes: On a point of order.

Mr. Chairman: State your point of order, Mr. Stokes.

Mr. Stokes: The minister is saying that he finds what I have said disgusting. I want to ask him—

Hon. Mr. Bernier: It was disgusting in trying to bail out your leader.

Mr. Stokes: —why didn't he demand an environmental hearing into the application of Kimberly-Clark?

Mr. Reid: Why didn't you?

Mr. Yakabuski: We will now.

Mr. Stokes: He is the minister.

Mr. Reid: Why didn't you?

Mr. Chairman: Order, please.

Mr. Stokes: He is the minister, not me.

Mr. Yakabuski: We will now; but I think you should talk to your leader, Jack.

Mr. Stokes: Why didn't he demand an environmental hearing with regard to Kimberly-Clark or Great Lakes Paper? They're the people that are supposed to be preserving the resources and the environment for the province of Ontario. Not me.

Hon. Mr. Bernier: The record will show—

Mr. Stokes: If there's been a failure, Mr. Minister, it's on your shoulders, not mine.

Hon. Mr. Bernier: In one sense, the member for Lake Nipigon is saying, "It's I who am asking for this"; "I agree with this"; "I think this"; "I feel that." On the other side of the ledger it's, "We as a party." Those "I's" and those "we's" are at completely different ends of the spectrum, completely. They're at opposite poles. And, Jack, the record will show that. The record will show that.

I know you speak for northern Ontario. I respect it. I think you're right on track, but for God's sake tell your leader that and get

him to be on the same track as you are; that's all I ask. Because he's embarrassing your party; and it's an embarrassment to the people of northern Ontario.

Mr. Stokes: I want to make it quite clear that I spent one hour and 30 minutes yesterday afternoon before coming into this committee with Mr. Billingsley, the president of Reed Paper; and Mr. Tommy Jones, who is vice-president of Reed Paper. They requested a meeting with me to explain their position and I went over all aspects of the Reed Paper applications for an hour-and-a-half. I want to report to you that the leader of the New Democratic Party met at 8 p.m. last night with Mr. Billingsley, and they had an opportunity to go over all of the aspects of this letter of understanding with Reed Paper and the Ministry of Natural Resources. We're not hidebound, we're not sticking our head in the sand—

Mr. Reid: Jack, what did Stephen say here yesterday afternoon?

Mr. Stokes: Listen, I'm not answerable to you.

Mr. Reid: You are answerable for what he said.

Mr. Stokes: I'm answerable to the people who sent me down here to represent them and for—

Mr. Reid: Well, you do a good job of that. You come on like the Chamber of Commerce in your riding and you come down here and you're in the same bucket with the rest of the NDP.

Mr. Stokes: You send everything that I've said up to the people that I represent and see whether they would disagree with me.

Mr. Reid: No they don't. Because you're interested in the jobs and you're interested in the forests. But what your leader is saying is diametrically opposed to what you're saying. He sat in that seat at the end, came in here at 5 p.m. last night to bail you out and said: "We are opposed to the Reed proposal. We will do everything we can to stop it." He said that at the St. Lawrence Centre; he said that upstairs in the question period; and he repeated it here yesterday.

And I might remind you, Jack, that Andy Rickard was on CBC radio yesterday and he himself said: "We have to have some kind of development. We're not against the cutting of trees as long as we have certain safeguards."

That's our policy, we agree with that; but that's not what your leader was saying.

Mr. Stokes: That's precisely what he was saying.

Mr. Reid: No.

Mr. Chairman: Order, please.

Mr. Reid: That's not what he said.

Mr. Stokes: I want to remind any of you who weren't at the St. Lawrence Centre that the member for Rainy River—

Mr. Yakabuski: I heard him—

Mr. Stokes: —jumped on—

Interjections.

Mr. Chairman: Order. Order, please.

Mr. Reid: Let Hansard show Mr. Yakabuski is referring to the leader of the NDP.

Mr. Stokes: I want to remind the members of this committee that Mr. Reid participated in that open forum at the St. Lawrence Centre and said that nothing should happen with regard to Reed Paper until we have a royal commission to study the whole thing. Is that your position?

Mr. Reid: Yes.

Mr. Stokes: You don't think they should be given the licence to operate until we have a full and complete review of the situation in the province of Ontario?

Mr. Reid: That's right; but I never said we would stop it, and that's what your leader said.

Mr. Stokes: You're saying you would stop it until everybody was completely satisfied that it could be harvested and managed in a realistic way.

Interjections.

Mr. Chairman: Order, please.

Mr. Reid: That's not what your leader said.

Mr. Bain: That's exactly what he said.

Mr. Reid: He's called the whole proposal absurd under any circumstances.

Mr. Stokes: If I may, I think Mr. Herridge had something to say and I'd like to hear it.

Mr. Chairman: Have you completed your remarks, Mr. Minister?

Hon. Mr. Bernier: No, I haven't.

Mr. Chairman: The minister has the floor.

Mr. Yakabuski: On a point of order.

Mr. Chairman: State your point of order.

Mr. Yakabuski: When we adjourned last night at the hour of 6 o'clock, it was understood that this committee would sit again at 10 a.m. this morning. I understand it was approximately 10:15 by the time the committee got rolling.

Mr. Stokes: Yes, you were late.

[11:15]

Mr. Yakabuski: There might have been a good reason, Jack.

But anyway, it was understood the time was to be equally shared by all three parties. If my calculations are correct, the NDP has used up its 40 minutes. That was the understanding we had here at 6 o'clock last night. I just wanted to bring that to your attention, Mr. Chairman, because that was the understanding as we left the room.

Mr. Chairman: Continue, Mr. Minister.

Hon. Mr. Bernier: Thank you, Mr. Chairman. I'm going to ask Mr. Herridge, the Assistant Deputy Minister for Resources and Recreation to comment on Mr. Stokes' comment about the possible shortage of wood fibre for Domtar, Ontario Paper, American Can and those expansions going on in that particular area.

Mr. Reid: Add Boise Cascade to that list.

Hon. Mr. Bernier: Boise Cascade, yes, it could be on that list. I would have to say to you that our fate rests with the industry. I think we should make that point very clear.

They are going into the northern parts of the province and putting up large blocks of money. The Kimberly-Clark expansion alone is \$240 million. Great Lakes Paper is well over \$250 million. You go right down the list, even to Boise Cascade in Fort Frances. Now do you think in all sincerity that those companies and those men who are in charge of those corporations would put those kinds of dollars on the line for a 10-year period or a five-year period? Those are built and those moneys are raised on a long-term basis. They know and they have faith in this ministry and in this government, that the wood fibre will be available to them in perpetuity to keep those plants going. Look at the Dryden mill alone, and I'm not defending the Dryden mill.

It's an old mill and I fully recognize what it's done to the environment, no question. They're updating it and they can't go fast enough, as far as I'm concerned, when it comes to improving the environment and the waste they're dumping into the air and into the water. They can't go fast enough, as far as I'm concerned. But that mill's been operating since 1913 and it's still operating. The life of that particular plant, well, there's just no end to it.

As you correctly point out, the residue now that's being used in many of our mills—before they used to burn the chips and the sawdust and the bark. Now that's not done any more. Those are valuable byproducts. It's a byproduct now, it's not a waste. That is being funnelled into these particular plants. So that while we may not be able to supply—and Mr. Herridge will direct himself to this question—timber in their back yards, so to speak, or at their back door, there is the fibre to keep those plants going. There is just no question in my mind and the feeling in my ministry is exactly the same as that. I'll just ask Mr. Herridge to elaborate further.

Mr. Herridge: Mr. Chairman and Mr. Minister, with specific reference to the \$90 million opportunity for expansion by Domtar at Red Rock that was decided against, this would have required a level of wood supplies beyond that which was available to Domtar in its present holdings. This is not to be confused with the appearance of or the suggestion of a fibre shortage for that mill at its present level of production.

The Domtar mill, as is pointed out by Mr. Stokes, draws some of its fibre supplies in the form of chips, sawdust and shavings from some considerable distances from the Red Rock mill. This simply reflects the advances in technology and the opportunities for fuller utilization of what were formerly waste products from sawmills and so on. But the opportunity for use of residual fibres, the opportunity for fibre exchange through logs going from the Domtar licence to sawmills in Thunder Bay and elsewhere, and chips being returned are such that, in our opinion, the long-term supply futures for the Red Rock mill are not in jeopardy.

Moreover, the company has moved to acquire a substantial holding of private lands in northeastern Ontario from which it can supplement the licensed supplies that are directly available to it for its Red Rock mill, as well as the purchase opportunities they have for both roundwood and chips, sawdust and shavings.

With reference to the American Can mill at Marathon, there is almost a similar situation. I think Mr. Stokes used the figure of 60 per cent of their fibre supply that was coming in the form of residuals from sawmills elsewhere. Whether it is 60 per cent or 50 per cent is not the point at issue. The extent to which they depend on non-licence supply areas again should not suggest a fibre shortage in the short run or even in the long run, because those mills are guaranteed supply futures from Crown licences in other areas. For instance, the Chapleau operators and some of the Hearst operators supply fibre in the form of chips to the American Can mill and their futures are secured by licences on Crown land.

There has recently been some exchange or rationalization of licences that further support the American Can mill. This is part of the licence rationalization process that is going on continuously to make available to mills that are closer to them the supplies that may be held on other licences. The Ontario Paper Company mill at Thorold draws its fibre from several different areas in northeastern Ontario, and formerly over as far as Marathon and Heron Bay. We have recently gone through an exhaustive examination of the supply futures for the Thorold mill. They pick up fibre from places like Cochrane, Elk Lane, Heron Bay and a variety of other sources in northeastern Ontario.

It is also of interest to note that the Thorold mill draws somewhere between 10,000 and 20,000 cords a year of red pine pulpwood from plantations that were established on abandoned agricultural lands in southern Ontario. Whether they can expand their opportunity to use more of this fibre is a matter of technology, and not supply. But I think we have satisfied both ourselves and the principals of Ontario Paper Company that the supply futures for its mill at Thorold, insofar as Crown lands are concerned, are not in jeopardy at all.

So I don't think, Mr. Chairman, and through you to the minister and Mr. Stokes, that the supply futures for any of these mills referred to by Mr. Stokes are in jeopardy. The opportunity for further use of residuals in the form of shavings and sawdust, as well as more usage of chips and other species such as poplar and birch, are a buffering potential to supplement the traditional dependency on conifers. There is also the opportunity to expand the availability of fibre through interchange efficiencies and licence rationalization. So in the short term I don't see these three mills, or virtually any

other pulp and paper mill, in jeopardy for supply.

Mr. Reid: Could I ask, Mr. Chairman, does that also apply to the Boise Cascade mills at Fort Frances and Kenora?

Mr. Herridge: The dependency of the Fort Frances and Kenora mills on non-Ontario wood supplies is something that puts a little different perspective on their supply futures. They have chosen to expand their levels of manufacturing to a point that crowds the upper levels of their availability of Crown licences on Ontario. One must assume that they made those decisions against the future security of wood coming from Manitoba and Minnesota. With respect to the Minnesota wood, some of that is coming from deeded lands held by the company itself, so one must assume that there will be no problem here. And you are aware of the interchange of slush pulp between International Falls and Fort Frances. It provides for that. But I think that the supply future for both Fort Frances and Kenora on the part of O and M or Boise are secure. However, there is a certain cloud, because of the extent to which they do depend on non-Ontario sources.

Mr. Reid: Could you provide me with the figures for the last five years? Of course it won't be the pulp slush because the mill hasn't been operating that long. Could you provide me at some early future date with the figures on the amount that has been transferred as well as the amount of specie logs that are transferred back and forth between the Fort Frances and International Falls mill?

Mr. Herridge: Yes.

Mr. Reid: Thank you.

Mr. Herridge: There is another point, Mr. Minister, that was referred to by Mr. Stokes. Out of respect for the point that was raised by Mr. Yakabuski, I don't want to take unduly of the time of the committee when there are others who may wish to speak. But Mr. Stokes referred to two other matters that touch on the area of the profession, and one is the quoting of a letter from the president of the association in which he gives an opinion that touches on the overall subject, not only of the Reed proposal, but also that of the level of forest management, in the province.

I think it is fair to say, and it should be put on the record, that there are some differences of opinion within the association as to

whether or not the president was speaking on his own personal behalf, or expressing a personal opinion, to which he, as are all other individuals, be they members of the association or not, are entitled, or whether in fact he was accurately reflecting the views of the association. That is an internal matter within the association, but I think it is fair to put it on the record alongside of the quoting of his letter as though he was speaking for the 600-odd members of the association.

Mr. Stokes: He signed it, "J. H. Blair, RPF, President, Ontario Professional Foresters Association." So I assume if he doesn't speak for all of them he speaks for the majority.

Mr. Reid: Well, we have seen, Mr. Chairman, that the leader of the NDP doesn't necessarily speak for all the members of his party; one in particular at least.

Mr. Chairman: I have the following speakers: Mr. Lane, Mr. Wildman, Mr. Riddell, and Mr. Haggerty. Mr. Lane.

Mr. Lane: I thought a while ago I would have a pretty hard act to follow but it has toned down now so my remarks will be in context with the meeting at the moment.

I have some concerns about various situations as they relate to the wood industry in the north. I am looking at the big six licensed companies. I see E. B. Eddy is number six on the list. Of course, they are the big producer of jobs in my area. When I was a boy, and that was a long time ago when there were mills up and down the north shore in my riding, that is where all the employment was. There were big mills at Blind River and Spanish and Cutler and the mills have gone and the people have stayed on. It is a pretty lacklustre type of situation on the north shore part of Algoma-Manitoulin riding because there are not many jobs there.

A lot of these people still go to Espanola to work for Eddy. The one thing that bothers me is that we have an Indian reserve there. I have eight Indian reserves on my riding. But the Spanish River reserve is 20 miles from Espanola. They don't have a very large volume agreement as far as timber goes, not nearly enough to keep them busy. Eddy Forest wants to expand and I know we are busy trying to find new limits for them to expand. I talked with the chief of the band and also with the management people of the company, and of course they get along great and they are prepared to buy wood and hire them and so on.

However, some of the Indian people at least do not want to belong to certain unions that cover the E. B. Eddy forest operation and for this reason they cannot produce any wood for them. It seems to me when we are going to be extending a licence, or giving a volume agreement for wood, if we have native people in the areas who want to work in the woods there should be some protection built in for them in that volume agreement where they can produce wood from those limits and can sell it to that outlet without being forced to belong to certain unions that they may not want to belong to.

[11:30]

I am not speaking against unions, I think they are very necessary; but I think our native people—and I think Mr. Haggerty and I heard about this when we were up with the foresters at the end of August—a certain group of Indian people are not getting any work from Domtar because they don't belong to the union which provides the wood for Domtar. I think this is entirely wrong and I would hope that that would be considered in the future.

I think the trip to Thunder Bay was certainly very interesting to me and many of my colleagues from all parties. I don't think all was bad. I was on the tour that went out on the Domtar limits and we saw some very excellent stands of black spruce and pine which are something we can be very proud of. Granted, there could be more acres of this but we certainly do have some excellent stands of reforestation going on in that area.

Mr. Stokes: Some of the best reforestation in the province is going on there.

Mr. Lane: Yes, it certainly is. I think the thing we have to be aware of is that forest management and reproduction of forest is much like farming today. I think we have to find out what lands are going to produce what kinds of woods and make sure that we're reforesting the right lands at the right price. A farmer today isn't going to go out and plant corn or peas or barley on a piece of ground which needs some type of fertilization to bring it up to par. He's going to use his best land to produce those crops.

It seems to me, looking at some of the things being said around this table about the lack of reforestation, maybe we're going to be growing a lot more timber from a lot less acreage because we're doing some of these things now. I think we're going to have to continue to do them and make sure

that we do grow the most wood possible on the fewest acres possible at the least cost possible and still keep up that volume. I think this is showing up in that stand of black spruce I'm referring to.

I think some of our forests should never be cut because they provide protection for our wildlife. They have no chance of any reproduction to any great degree because they're not the proper lands; they're not growing the proper woods in the first place. I feel that the people of this province are not aware that farming the forest is much like farming our farms. We have to reforest the land that will really produce for us and provide the wood for the future. I think we do need some more funds in that field. I think the minister is fully aware of it and I am, as a member of this government.

All is not bad. As a matter of fact, I was pretty darned proud to be part of a government which has a hand in the kind of reforestation we saw in that area. Also, I was very interested in seeing the method of cutting which was used and the method of cutting that's being used and proposed now.

I hope that in the future when we're giving—

Mr. Stokes: You did see the clear cuts, though, too?

Mr. Lane: I did see them but I noticed that they're something that's past. Except in areas where budworm or something is working this is something which isn't going to happen too much more in the future.

I think we have learned some lessons. At one time, I think, we were reforesting land which should have never been reforested. It was costing too much and producing too little. I think we've found out now that we have to reforest the right land at the right time and I think we've learned a lot and we've made a lot of progress.

I am concerned that in many cases the native people who want to work nearby are shut out because they're not members of the unions which are producing wood for that particular operation within a reasonable distance of their homes. I just hope we can take care of that in the future. I won't take any more time, Mr. Chairman.

Hon. Mr. Bernier: I'm going to ask Mr. Lockwood to comment in detail on the points you've raised with respect to specific operations in a specific area. I did indicate to the committee I think early in the examination of these estimates, that I had written to Tulio Mior, in Thunder Bay, asking him to consider

allowing the native peoples not to be forced into a specific union if they do want to have their own small operations in the woods industry, maybe as a third party agreement in conjunction with the major licence holder in that particular area. I think those people have to be treated in a very special way; there's no question.

Mr. Haggerty: Quite correct.

Mr. Lane: I agree.

Hon. Mr. Bernier: I would hope—I would think we would get the support of all parties on that particular point. I will make these feelings known to them.

Mr. Haggerty: I think that was the feeling of the NDP members on that particular item.

Hon. Mr. Bernier: Yes, I think it was. I would have to agree that I think they're with us on that particular point. I'll ask Mr. Lockwood to go into more detail.

Mr. Lockwood: Mr. Chairman, Mr. Minister, you were speaking to Mr. Lane about the Indian band at Spanish River and their potential supplies. I think Mr. Drysdale, who is the chief of our timber sales and allocation section, might speak to that point more specifically than I can.

Mr. Chairman: Mr. Drysdale?

Mr. Drysdale: Mr. Chairman, Mr. Minister, I have met with the chief whom you speak of, Mr. Lane, and we understand the problem with respect to wood supply for the native peoples. We have endeavoured to make wood available to the band under district cutting licences, and these are small quantities.

But the point you raise is correct. They would like to operate on a large scale and they would like to operate within the umbrella of a more reliable contract arrangement with Eddy Forest Products. But, the existing union agreement with Eddy Forest Products will not permit that.

Mr. Lane: This is the problem. They have some cutting rates but they're not nearly sufficient to do them for the year. I think they're fully aware that the employer they have to look to in the future is Eddy Forest Products. But, with the present situation they're not able to produce woods other than what they have under their own special agreements.

Somehow or other, I feel we have to bring them in under that umbrella where they can produce woods for Eddy Forest without having to join the union if they should not want to. I'm not saying they shouldn't join it,

but I don't think they should be forced to join the union in order to get work for their men.

Mr. Drysdale: I would just add that this is a matter, as the minister indicated, that has been brought to the attention of the union people, and that to my knowledge they have not really given a complete and full answer to that question.

Mr. Lane: I hope we will be pursuing it and maybe we can have a more meaningful answer on that in future. Thank you very much.

Mr. Chairman: Mr. Wildman?

Mr. Wildman: Thank you, Mr. Chairman. I won't take up much time because I know the Liberals are wanting to use time and we're running out of it. I just want to make a few short comments and ask some specific questions as it pertains to particular limits in my area.

I would agree with Mr. Lane and his comments that we have to look at forestry more as farming than mining. Unfortunately, there is some evidence that in the past we have looked at it more as mining than farming. As a result there are shortages, or appear to be shortages, in some specific areas, although perhaps not throughout the province.

Just commenting in passing with regard to the Reed situation. If the ministry is as determined as it says it is to do all of the studies necessary before finalizing the agreement, I wonder why a memorandum of agreement is needed in the first place, rather than simply carrying out the studies. Then if it is a viable operation, an agreement can be made with whatever company is interested in the area.

At any rate, I want to deal specifically with the north shore of Lake Huron and Blind River in particular, because it seems to me that this is a very good example of what my leader was talking about yesterday. He talked about the fact that too many communities in the north have been and remain dependent wholly on resource extraction without the development of proper or more varied infrastructure and secondary industry. Thus, when the resource that the community is dependent upon runs short, you have a bust situation and there is a great deal of unemployment. People don't have jobs and there's no future.

That's partially what has happened in Blind River. We have a situation there where a mill has shut down because of financial

problems due to the shortage of veneer lumber. There just isn't enough and as a result there is a tremendous amount of unemployment and the town is scraping by with a lot of people working as casuals for MNR and for MTC and collecting unemployment insurance the rest of the year. And a number of other people commute long distances to Elliot Lake, over 50 miles one way, to work in the mines when, of course, there could be a possibility of shortening that. Again, that doesn't have to do with this ministry.

At any rate, there is now a proposal by Centralia Lumber of the United States to open a veneer mill under the name, I believe, of Winlock Veneer. There were long negotiations which Mr. Lane is well aware of and a four-volume agreement. I would just like to know if Mr. Lockwood or Mr. Drysdale could let us know what is happening with that proposal. What is the holdup? What is the long-term view of it, because there just isn't very much quality timber in the area that can produce veneer. I am just wondering what the long-term possibilities are. Where are we going with this? What does it mean to Blind River?

Mr. Lockwood: You were referring to the state of the nation with respect to Winlock. You are probably aware we have completed a volume agreement with Mr. Fabris of Elliot Lake, which has a rider in that seven million feet of veneer material must be produced for Winlock. That volume agreement is in place. Mr. Fabris and the ministry have been waiting impatiently for Winlock to clear their financial difficulties with the receivers. I believe they have something with ODC where they owe ODC some money.

Mr. Wildman: Well ODC, I understand are in a way the receivers. They are involved as the receivers.

Mr. Lockwood: That is quite likely. They have until December 1 of this year. Winlock have until December 1 of this year to complete their payment for the machinery inside the plant. There is no reason at all why that operation shouldn't be going right now, other than the fact that Winlock hasn't paid their bills.

Mr. Wildman: Can you tell me something about the other question I asked about the long-term possibilities if this operation starts? What does it mean for employment in Blind River and are we looking at two years, three years, seven years, five years, or what?

Mr. Lockwood: We indicated quite clearly to Winlock when they started negotiating for

the Champlain Mill that the availability of veneer was indeed limited. The actual supply is for five years at the most guaranteed at seven million feet a year. When you are talking about veneer, as you know, it is a very high quality product and there simply isn't that type of product available to maintain that particular plan beyond five years.

[11:45]

Mr. Wildman: Just one other short question: Besides the desire to do something for Blind River, I think this indicates that we are concerned with jobs. But at the same time, if jobs are dependent wholly on a resource that isn't available or will not be available in the future, then you end up with a situation of a mill shutdown and a great deal of unemployment.

The one other question I want to ask deals with the mill at the Mississagi River Reserve, which is related to this whole agreement. I understand that they have an agreement where they can use the cores from the Winlock operation. Is there any wood available for them to get any limits of their own, or are they going to be dependent completely on this mill? And if the mill doesn't open up, where are they? Related to that, I would like to know if the ministry had any kind of contact from the native community secretariat before they made the agreement to help Mississagi obtain all of the new equipment that they have purchased for the mill. When I phoned the ministry officials about this, my impression was that they were quite surprised that the secretariat had made this proposal. They suggested they had agreed to this for Mississagi because they felt there wasn't enough wood available.

Hon. Mr. Bernier: Mr. Lockwood, would you comment on this question?

Mr. Lockwood: I don't recall, honestly, whether we were contacted before or not. But we have been saying steadily, both to the band and to other people, "For gosh sakes don't expand your demand because the supply is not there to sustain an expanded operation." It is true that the band can draw the veneer cores from the Winlock operation—when it starts rolling. It is my recollection that there has been some accommodation made in the volume agreement. Is that correct, Mr. Drysdale?

Mr. Drysdale: For the cores.

Mr. Lockwood: For the cores. So beyond that, that mill will have to be dependent on local sales, as they come up, and district cutting licences.

Mr. Wildman: I had some other questions I wanted to ask, but since time is running short I will pass.

Mr. Chairman: Mr. Riddell.

Mr. Riddell: Yes Mr. Chairman, as a member of this committee, I regret that I have not been able to attend more of the meetings and participated in more of the discussions. However, I have been following them with interest and I think there has been some excellent comments and criticism made about the government's management and protection of the forest industry.

From the discussions which I have heard and which I have read about, it is rather obvious to me that the New Democratic Party, under the leadership of Stephen Lewis, and such members as Mr. Stokes, Mr. Martel—and I believe my colleague will be reading a letter into the files that was written by a northerner to Mr. Martel—that the NDP are quite prepared to betray the people of the north in order to gain political popularity in the south. It is also obvious that—

Mr. Wildman: You didn't hear anything I said about Blind River.

Mr. Riddell: It is also obvious that the Conservative government is prepared to play into the hands of large corporations, regardless of the consequential effects it will have on society as a whole.

So, with this in mind, it looks to me as if the Liberal party is the only one which believes in meeting people, consulting, listening and formulating policy which will be to the benefit of society in general—

Hon. Mr. Bernier: Have you read my statement? Have you read of an understanding?

Mr. Chairman: Order, please.

Mr. Riddell: With this in mind, there have been several members of the Liberal Party, including myself, who have travelled—

Hon. Mr. Bernier: Everybody is getting into the act now.

Mr. Riddell: —across Ontario and have met with various people connected with various types of industry. When we arrived in Bancroft, we met with a number of people and we found that there is a great deal of disenchantment amongst the loggers in that area. They presented a brief and I would like to read this brief into the record and get the minister's comments.

Mr. Stokes: Let it be on the record there were three Liberals who showed up at the On-

tario Professional Foresters' seminar in north-western Ontario. There were something like seven Conservatives and 20 New Democrats.

Hon. Mr. Bernier: Because you were having an area caucus meeting. Let the record show that, Mr. Stokes.

Mr. Reid: And let the record show that the poor starving NDP stayed at the Red Oak Inn while the rest of us stayed out at the university.

Mr. Chairman: Order.

Hon. Mr. Bernier: It was a political meeting they engineered. Maybe they used public money to get up there.

Mr. Chairman: Mr. Riddell has the floor.

Mr. Riddell: The brief reads as follows, for the minister's comments later:

"The forest industry in the northern part of Hastings-Peterborough riding is probably the biggest employer of the area. For this reason, logging is of fundamental importance to our economy and our employment opportunities. In the last few years the number of small local loggers has increased from approximately 60 to 200, all of which has added wages and jobs to our economy. Unfortunately, overcutting has been allowed. Therefore to keep this renewable resource operation on a continuing basis, the ministry is reducing the number of cutting licences. There is no quarrel with this reduction although we wonder at the overcutting which has been allowed."

"Twenty years ago, the old foresters warned the ministry of overcutting when they changed from the selective method of cutting. No professional Canadian loggers were allowed a say in the new policy which now favours clear-cut methods imported from Europe. The old foresters were correct; overcutting did occur.

"What seems a contradiction to this entire situation is that the Ontario government has just recently arranged a \$325,000 loan, plus a \$67,000 outright grant, to develop a new modern mill in an area that is already being overcut. It requires a great deal of lumber to feed a modern mill and since we have declining local timber stocks either the government will feed this new mill to keep its new investment going, to the detriment of the existing small local loggers and their mills, or else the small local loggers will continue on and the new government-financed mill will run only on a part-time basis.

"If the new mill runs full-time, it is estimated that three existing mills will go out of

business. This amounts to the provincial government financing unemployment in our area. Any way you look at it, this is a terrible misuse of public money.

"The conflict this brings into question is the entire issue of big-scale versus small-scale logging. Undoubtedly the big operations are the more efficient in some ways but since the price of lumber is established on the open market and since local loggers must sell their products at the going prices, it does not really matter who maximizes their profits. It only matters for our purposes that they are competitive and that they continue to provide a great deal of employment and money to our area but under the new proposed system they will not be able to survive.

"When cutting licences are issued, the big and small operators alike normally cut their area within the year. The economy benefits from the employment and the cash flow generated; we benefit from this activity.

"Many big operators, however, control large acreages of timber rights which they have acquired from leases issued two years ago. Often these older leased areas are held as private reserves while the agents of the large operators bid and get new land on a year-to-year basis from the ministry. These old unused timber rights provide no employment. They actually reduce potential employment in our area because they are an idle untapped resource.

"Because these old timber rights cost practically nothing in stumpage fees, as low as \$200 per thousand plus a bonus scaling charge, this enables these big operators to pay big prices for new timber leases in competition with the small operators. They can then intersperse their cheap and expensive timber. This merely adds another nail in the coffin of the small operators as the big boys are given yet another advantage in the business.

"In yet another fashion; the big timber operators save their old rights until the price goes up while at the same time competing on a year-by-year basis with the small operators for present available timber. Either way, these old timber rights reduce employment, suppress our economy and give the big operators the advantage.

"With the recent shortage of timber, the most important question now is: 'How are the remaining limited timber rights to be given out?' The ministry office in Bancroft and Mr. Rollins [I will say that Mr. Rollins is the member for Hastings-Peterborough, I

believe] have already created these new rules for our area. [Note this] No other area has these rules. They are:

"1. All timber is to be sold by sealed tender.

"2. Unsuccessful bidders will no longer be considered operators and will not be invited to tender.

"3. Only local people may bid, probably by invitation.

"4. Timber granted must be harvested within the year or taken away and resold the next year."

I had quite a discussion with the loggers after the meeting and they tell me that it is Clarke Rollins who is wielding the big stick up in Hastings-Peterborough. He is the guy who is laying down policies, not the ministry here, because this is not practised anywhere else. They even tell me that they have to go running to Clarke Rollins in order to ascertain who is going to get a licence and who is not going to get a licence. I could go on about some of the other ministries dealings with Clarke Rollins because I understand they buy all their bloody gas from him as well. Anyway, let's not get into that as well.

It goes on: "There are several drawbacks to this method. The most important one is that the ministry will be able to feed the operations they choose, Open free enterprise and open bidding will not be allowed.

As an alternative, what we propose is a method for fair and honest timber rights. Distribution is as follows:

"Firstly, we must partly maintain our old system whereby local loggers who know of local timber cuts in their own areas, can apply for these lots. After all, who knows the local forests better than the local operators? The ministry officials would examine these local blocks and determine if they would allow a cutting. This should effectively control the harvest for long-term use.

"Second, the remaining prime lots should be put up for public auction. Only locals and those who would harvest the lots would be allowed to bid. A maximum number of lots per person must be arrived at.

"Third, because we now have too many men bidding for too little timber, no new licences should be issued. The result would be gradual restoration of a balance between timbermen and the amount of timber available."

Now, Mr. Chairman, I don't profess to know all that much about the forest industry. But, I was quite interested in talking to these loggers at the meeting we held in Bancroft. I

am going to tell you they are pretty dissatisfied with the way this ministry is running things and they are not too sure whether it is the ministry that is running them up in that particular area or whether it is Clarke Rollins. I would like a few answers to some of the comments that have been made here and to some of the dissatisfactions that have been expressed by the loggers in the north Hastings area.

Hon. Mr. Bernier: Mr. Chairman, it is obvious that there is a long list of charges there and counter-charges. I think the member correctly pointed out that he is not an authority himself on the forestry practices or management, but certainly I will look into those issues he brought forward. I would say to you, sir, it is my opinion that the conditions you spelled out have in all likelihood been agreed to by the local people. I know in my own specific area, and I believe in Mr. Stokes' area, that operators do get together on Crown management units and indicate how they would like certain conditions built in, who would be considered an operator, and how it would be handled. I have been at meetings with my own staff right in the Oxdrift town hall when all the operators were there. They laid down how they would like it to be handled, the limit on the number of operators, the tenders, how they would come in, and the whole bit, and we have complied and agreed to. If this is the system they want, fine and dandy. It is your resource, we will work closely with you, and it has worked out very well.

Mr. Riddell: These people tell me they were not consulted in any way.

Hon. Mr. Bernier: I'd like to look into that aspect of it.

Mr. Eakins: Would you give us a reply to their concerns? I know the hour is late, but would you give us a reply to their concerns?

Hon. Mr. Bernier: Yes. I will give you a written reply.

Mr. Johnson: That should have come under the St. Lawrence Parks Commission.

Mr. Riddell: We are talking about forest management, Jack. Let's not get into it now.

Mr. Chairman: Mr. Haggerty.

Mr. Haggerty: I was interested in the member for Lake Nipigon's (Mr. Stokes) comments when he was reading from certain speeches that were given to the Ontario Professional Foresters Association that was meeting in Thunder Bay. As I attended that

seminar up there, the question was thrown to me by reporters: "What is the member for perhaps the most southerly part of the province of Ontario doing attending their seminar? What interests do you have?" I am deeply concerned about the forest industry and its management programme. I would like to quote from this particular speech given there by Dr. B. K. Steenberg of the Royal Institute of Technology, Stockholm, Sweden.

In his speech he says: "Employment in silviculture should be an important method of preventing decline in rural employment and increasing urban congestions."

He goes on to say: "To sum up, I believe that the overall employment trend in logging and primary forest industry is downward and this reinforces my views about the need to create more rural employment opportunities. Silviculture is the obvious solution because it can be started quickly and requires a low capital input."

I have received a letter here from the township of Red Lake, a resource-conscious community, an open letter to Elie W. Martel, MPP, at the office of the opposition. Of course this letter perhaps is in contrast to my views and, I think, even the views of the member for Lake Nipigon. It says:

"Dear Mr. Martel:

"I have received with interest your open letter dated October 12, 1976, regarding the October 27 forum on forestry at the St. Lawrence Centre in Toronto. There are a number of points in your malicious letter which I wish to bring to your attention.

"Firstly, not only will Ontario and Canada benefit from the proposed forestry complex in this area, but Red Lake and district will receive the greatest benefit of such a complex. It amazes me to see a member of the party that promotes the benefit of labour trying, along with his leader, to crush the aspirations and hopes of a single-industry township."

Mr. Riddell: You fellows are going to lose every seat in the north, Jack.

Mr. Haggerty: It continues:

"It also amazes me to see a forum being held in Toronto, 1,200 miles from where the cost benefit will be most directly felt. It would appear to me that the proposed meeting would have been more fair and equitable had it been carried out in our area. The participants could see for themselves the type of country and the employment opportunities

that they wish to discuss in such a cavalier manner in the heart of Toronto.

"Secondly, Mr. Martel, your point, 'Who in the hell could get to Red Lake?', portrays the feelings of those people similar to yourself in southern Ontario—"

Mr. Reid: That's a great statement from someone in northern Ontario.

[12:00]

Mr. Haggerty: It continues:

"—who wish to sit in their ivory towers and make decisions without knowing facts regarding an area's future. It may help you to know that our last dog team went out of existence 20 years ago. Yes, Elie, there really are alternate methods of transportation to Red Lake.

"Thirdly, I think it is time you realized, sir, that you may consider us to be in the middle of nowhere but without our natural resources the 'golden horseshoe' of Toronto-Hamilton-Oshawa would soon become a nowhere, and may find itself facing the same slow death that the community would face if the gold mines closed.

"As I previously mentioned, it appals me to hear a member of the Legislature, who is supposed to be sticking up for the rights of the working man, making such flippant statements. If you were the member for Essex-Kent, London or Niagara Falls there may be some modicum of an excuse, but you, sir—"

Mr. Riddell: Only if you are an NDP member.

Mr. Chairman: Order, please.

Mr. Haggerty: It continues: "—represent the Sudbury district which touts itself as being northern Ontario and, as such, you should realize the problems inherent for labour in the north.

"I feel it is incumbent on you to retract your statements, particularly those that pertain to Red Lake.

"Yours very truly,

"John Goodwillie, Reeve."

Hon. Mr. Bernier: You are all alone, Jack. They've all gone.

Interjections.

Mr. Chairman: Order.

Mr. Haggerty: Mr. Chairman, perhaps I don't have any direct contact with the community of Red Lake but I can go back to my days of working in industry and my visit

to northwestern Ontario. I visited an old site up there, the New Dickenson Mine. I might say if you went up on some of the structural steel there you would probably see my name written on some of the columns. The plant I worked fabricated the steel and installed much of the equipment. We had an excellent ball team up in Red Lake.

Mr. Stokes: Come on—on a point of order. I don't condone what the member for Sudbury East (Mr. Martel) said in saying: "Who the hell can get to Red Lake," because obviously he should know better. I want to say it wasn't the New Democratic Party or any party in this Legislature which convened that meeting at St. Lawrence Centre. It was convened by an association in support of native people at which they asked the minister to be present—

Mr. Reid: Toronto Arts Productions.

Mr. Stokes: —and members of Reed Paper. At that time Reed Paper said they weren't prepared to participate and the minister himself said he wasn't prepared—

Hon. Mr. Bernier: I was prepared—

Mr. Stokes: Okay. But at that time—

Hon. Mr. Bernier: —for a meeting in that area where the operation or the complex was going to go. In the Red Lake area, I will be there with bells on.

Mr. Stokes: So will I, if given the opportunity. All I am saying is Martel didn't con-

vene the meeting. It was convened by the association in support of native people and at that time the minister indicated he would not participate.

Mr. Reid: Toronto Arts Productions.

Mr. Lane: One of the many times Martel was talking when he should have been listening.

Hon. Mr. Bernier: Very inappropriate.

Mr. Chairman: Our time has come to an end.

Hon. Mr. Bernier: Mr. Chairman, before we wind up I have just been informed by my staff that a meeting was held two weeks ago at Bancroft and 35 operators were in attendance. The proposal to put the timber up for public auction has been agreed upon. They are fully informed and things seem to be relatively content in that degree.

Mr. Riddell: Well, I'm glad to hear it. Maybe the fact that we pursued this matter has helped.

Mr. Chairman: Shall vote 2304 carry?

Vote 2304 agreed to.

Mr. Chairman: This concludes the estimates of the Ministry of Natural Resources.

Hon. Mr. Bernier: Thank you, gentlemen.

The committee adjourned at 12:05 p.m.

CONTENTS

Thursday, November 4, 1976

Resource products programme	S-2723
Forest management	S-2723
Adjournment	S-2744

SPEAKERS IN THIS ISSUE

Bain, R. (Timiskaming NDP)
 Bernier, Hon. L.; Minister of Natural Resources (Kenora PC)
 Eakins, J. (Victoria-Haliburton L)
 Haggerty, R. (Erie L)
 Johnson, J. (Wellington-Dufferin-Peel PC)
 Lane, J. (Algoma-Manitoulin PC)
 McNeil, R. K.; Chairman (Elgin PC)
 Reid, T. P. (Rainy River L)
 Riddell, J. (Huron-Middlesex L)
 Stokes, J. E. (Lake Nipigon NDP)
 Wildman, B. (Algoma NDP)
 Yakabuski, P. J. (Renfrew South PC)

Officials of the Ministry of Natural Resources taking part:

Drysdale, D. P., Director, Timber Sales Branch
 Herridge, A. J., Assistant Deputy Minister, Resources and Recreation
 Lockwood, J. W., Executive Director, Division of Forests







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SUPPLY COMMITTEE — 1 *Session*

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OFFICIAL REPORT — DAILY EDITION

Third Session of the 30th Parliament

Thursday, November 4, 1976

Afternoon Session

Speaker: Honourable Russell Daniel Rowe

Clerk: Roderick Lewis, QC

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CONTENTS

A list of the speakers taking part in the debates in this issue of Hansard appears, in alphabetical order, at the back of this issue.

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LEGISLATURE OF ONTARIO

SUPPLY COMMITTEE

THURSDAY, NOVEMBER 4, 1976

The committee met at 3:26 p.m.

ESTIMATES, MINISTRY OF LABOUR

Hon. B. Stephenson: Approximately one year ago we presented the estimates of the Ministry of Labour before the estimates committee in this room. At that time, I had been in the ministry approximately three and a half weeks. With the considerable experience I have been able to gain during the past year, I hope that I am going to do a better job for you this year than I did last. However, there isn't any doubt about the fact that I will continue to require assistance.

I think I should introduce to you today some of the members of the staff of the Ministry of Labour who are here with me. On my immediate left is Mr. Tim Armstrong, the deputy minister, and on his left, Professor George Adams, the assistant deputy minister. I anticipated that Don Hushion, executive director of the labour services division, would be here but I don't see him as yet. John Morgan, executive director of the administrative services division; Vic Pathe, executive director of the industrial relations division; Keith Cleverdon, director of the occupational safety branch; Paul Hess, director of legal services and Mike Skolnik, director of the research branch are here. Barbara Earle is here. I gather she is representing Marnie Clarke for the women's bureau. Marnie Clarke is also here and we are pleased to see her as well. These are just a few of the many staff members of the Ministry of Labour who with great diligence implemented and administered the policies and programmes of that ministry and have done so very well during the year 1975-76.

There will be specific questions on which I am sure I will need to call upon them for assistance. In order to ensure that all the members of the committee have adequate information, we have distributed copies of the 1975-76 annual report, which was tabled in the House on Tuesday of this week, and the explanatory material for the 1976-77 estimates. I hope that these two documents will be of assistance in informing members of the

ongoing programmes of the ministry, but there are a few specific activities during this year to which I would like to call your attention. These opening remarks, I would warn you, will be reasonably brief, but I think I should point out at least two or three specific circumstances which have been of interest and concern to the ministry during the past year.

You will recall that it is just about one year ago that the federal wage and price control programme was introduced. It was suggested, when we presented our estimates last year, that this programme might in fact make somewhat more complex the task of labour relations specialists in government, in labour and in management. The complexity is certainly there but it has not had a damaging effect apparently. In fact there has been a significant decline in the numbers of man-days lost as a result of industrial disputes since last October.

During the fourth quarter of 1975 in Canada there were 3,848,000 man-days lost, and in the second quarter of 1976 there were 2,592,000 man-days lost, a net decline of approximately 33 per cent. In the province of Ontario the fourth quarter of 1975 shows there were 1,478,000 man-days lost as a result of industrial disputes. Through to the end of the second quarter of 1976 there was a decline in time lost of about 71 per cent, and that number dropped to 432,000 man-days lost.

[3:30]

In 1974, to demonstrate this perhaps even more vividly, in Ontario in the first nine months of that year, there were 334 work stoppages accounting for 2,549,000 man-days. In 1975, there were 260 work stoppages with a total man-days lost of 1,792,000. In the first nine months of 1976—these figures apply to the first nine months of each of those three years—there were 194 work stoppages, accounting for 1,493,000 man-days lost. So there really is a very marked improvement in that specific group of figures. A part of that improvement is as a direct result of the activities of the Ministry of Labour in assisting both

labour and management to resolve their differences without resorting to work stoppages.

There were significant amendments to The Labour Relations Act, introduced in July, 1975, and although some of those have not been implemented as yet, one or two have had very significant effects upon labour-management relations. One amendment provided for the appointment of a special officer in the area of assisting labour and management to resolve problems during the term of a contract. That amendment has not as yet been put into use. I'm sure it will be at some time in the near future. Another amendment permitted the development of disputes advisory committees, and we have appointed three of these. They have proven to be successful in two of the situations in which they were appointed and their value has been very well demonstrated by the extremely useful work which the two disputes advisory committees fulfilled in those two situations.

There is another relatively new technique at our disposal, which is the industrial inquiry commission, and you will also be aware of the fact that Don Franks, who was a member of the conciliation and mediation branch of the ministry, has been involved in an industrial enquiry examining the collective bargaining structure with the construction industry. He produced a report earlier this year which recommended province-wide bargaining in that industry and there has been generally favourable response from both labour and management in the construction industry. We are continuing at this time to study the questions of implementation of that report and I anticipate that we will be reporting to the Legislature in the near future, when I hope that a final decision will have been made.

In addition to that, there has been appointed just this week to one very specific and very difficult labour dispute, yet another special officer—a commissioner in fact—who will be investigating the problems in the dispute in Oshawa at Ontario Malleable.

The efforts of the mediation conciliation branch, industrial relations division, the Labour Relations Board, and others within the ministry have been directed toward one goal—the achievement and the maintenance of more amicable relationships between employers and employees throughout the province.

Last month there was an unusual situation in which organized labour in this country held a national day of protest against the federal wage and price controls programme. I think indeed that that protest has had some value in that it has focused public attention upon the

big-labour movement, and certainly stimulated a good deal of public debate about the role of labour in society. One other thing that it did was to increase the public's awareness of the existence of the Ontario Labour Relations Board, as a result of a decision which had to be made by that board relating to the day of protest. The board is a very important element of the industrial relations field, but it usually seeks anonymity. It has not been able to achieve that during the last month.

I think that it's well probably to think carefully about the role of the Labour Relations Board in this province, since it is essentially the administrator of the Labour Relations Act and functions in that area with great efficiency and thoughtfulness at all times.

We have a new chairman of that board this year, Professor Donald Carter. Mr. Carter has nine vice-chairmen and 16 members on his Labour Relations Board—eight of those members representing management and eight representing labour. In most sittings there are usually three members of the board, a chairman or vice-chairman and two members, one each representing labour and management. These sittings and these divisions resolve matters which are of vital concern to both unions and employers.

The report which has been distributed to you for the year 1975-76 provides a good deal of information on past activities of the board, but I might point out that during the first six months of this year, the board heard 1,590 cases, an increase of about ten per cent over the number heard in the comparable period in 1975. The board is supported by a staff of labour relations officers who investigate matters which come before the board and returning officers who conduct elections.

It is with a good deal of sadness that I have to report to you that the registrar of the board, the man who had been registrar for many years, a long-time dedicated public servant, Mr. Arthur Brunskill, died on October 26 in his 62nd year. Arthur had made a tremendous contribution to the resolution of industrial disputes through his competence in the administration of the board's activities and his very real concern for the need to find solutions to problems, and his great capability in getting along with people from both sides of this area of activity. There isn't any doubt in my mind that he is going to be sorely missed.

The Labour Relations Board is integral to the system of collective bargaining in the province of Ontario, and as well, the conciliation-mediation services branch is equally in-

tegral to that activity. The conciliation-mediation branch is a good deal more obvious to the public than the Ontario Labour Relations Board, but each in its different ways contributes a great deal to the resolution of discord over important issues in the labour-management field.

I think all the members of this committee are very much aware that there has been a continuing, occasionally rancorous, and sometimes very rational debate about the present efficacy and future direction of the collective bargaining system in this country. I believe such a debate is absolutely essential to the understanding, and the future development, of a process which must be considered a fundamental social institution. It is entirely proper that this debate should be taking place and one of the things that we within the ministry welcome very much is comments from members of this committee who would like to identify for us matters of concern which we may appear not to have observed in the past.

We are moving, as everyone is well aware as a result of statements in the House, fairly actively in the field of occupational safety and I would like to report that our record in that area is improving, that in many aspects it is better than the national average and even in our worst aspects, is at least as good as the national average. During the 1970-73 period, the number of fatalities amongst construction workers in Ontario declined by 13 per cent, while the national average declined by about 10 per cent. When one recalls that almost 40 per cent of all construction workers in Canada are employed in the province of Ontario and that we have fewer than 30 per cent of all construction fatalities, I think you will understand that our record really is rather good in that specific region.

There isn't any doubt about the fact that we must place greater emphasis on reducing accidents and fatality rates in the industrial sector, because at the present time our provincial average of 12 deaths for each 100,000 workers is just equal to the national average. I am sure, however, that this record will improve as we apply the experience which has been gained through the improvements in the construction safety area to the problems of the industrial workplace.

We are continuing an active role, in the areas of construction and industrial safety. Although it is right and proper that Acts that define the regulations to maintain a safe work place are developed by the Ministry of Labour and enforced by the Ministry of

Labour, nothing will take the place of a responsible attitude on the part of both employers and employees and their co-operation with the ministry in not only complying with the Acts but indeed moving to work co-operatively toward advancement beyond the levels which we can set as enforceable levels.

We do administer three safety Acts in the province, and there are some statistics which I think you should have. Under the occupational safety branch, the Acts which are administered presently are The Construction Safety Act, The Industrial Safety Act and part IV of The Canada Labour Code. In 1974-75 in the province there were 128 fatalities, 90 under The Industrial Safety Act, 47 under The Construction Safety Act and one under part IV of The Canada Labour Code. In 1975-76, there were 98 fatalities—57 in industrial establishments, 39 on construction sites and two under The Canada Labour Code. In the first six months of this year there have been 50—22 industrial fatalities, 28 construction and none under The Canada Labour Code.

One of the major events of this year has been the report of Professor James Ham regarding occupational health and safety in mines. You have heard a great deal about it and you will be hearing more. Dr. Ham's report has focused upon and crystallized many of the issues which have been under discussion within the Ministry of Labour for several years prior to the publication of this report. All members are aware that we have introduced legislation implementing some of the major recommendations of Dr. Ham's report and in fact in certain aspects the legislation which we have introduced goes beyond Dr. Ham's recommendations.

The bill, as you know, is devised in order to ensure that the individual worker has the right to refuse unsafe work and to protect the worker's income and his job should he act responsibly under that specific portion of the Act. It deals also with the development of health and safety committees. But I think the primary feature of the bill which we have introduced can be said to be an effort to create an atmosphere of increased openness and co-operation within the occupational health and safety area. There are of course, you will realize, some administrative changes, including the creation of a centralized agency within the Ministry of Labour for all occupational health and safety matters and the transfer of units from the Ministry of Health and the Ministry of Natural Resources.

This bill which is being introduced, I would emphasize again, is an interim bill because we feel impelled to move as rapidly as possible. We had been developing certain portions of the legislation as amendments to both The Construction and Industrial Safety Acts and had intended to introduce them this fall. When they appeared to be in line with many of Dr. Ham's reports, it was suggested that it would be wise to introduce them on behalf of miners as well.

However, it is essential and obvious, I think, that we develop a comprehensive omnibus bill to cover all workers in mines, in industrial establishments and on construction sites, to replace the current Industrial Safety Act, The Construction Safety Act and parts IX and XI of The Mines Act. We are in the process of doing that at this point and hopefully we will be able to introduce that legislation by the end of this fiscal year or very early in the next. In the meantime, we would hope that the interim bill which we have introduced as The Employees' Health and Safety Act will receive swift passage through the Legislature in order to allow us to function more efficiently and effectively in these areas.

Self-compliance, as I mentioned earlier, is one of the basic philosophies of the Ministry of Labour. We work very diligently to encourage both employers and employees not only to comply, as I suggested, with the legislation but to work co-operatively to go far beyond that. I think one of the examples of self-compliance which has stood out this year is the matter about which we have heard much in the Legislature, the matter of community arenas.

Briefly, as all the members here are aware, responsibility for ensuring that community arenas comply with The Industrial Safety Act and the National Building Code has always rested clearly with the owners of those arenas, the municipalities or the citizens' groups who own these structures, and not with the Ministry of Labour. Truly, had all arena operators fulfilled this responsibility, it would not have been necessary in 1975 and 1976 to have been persistent in our pursuit of safety within arenas. Fortunately, the arena operators have responded extremely well to our inspection programme.

Virtually all have taken action satisfactory to the ministry. With the additional funding from the Ministry of Culture and Recreation and the opportunity to keep arenas open during repairs by monitoring, I think it's safe to say almost all the arenas in the province will be open this winter. Even more importantly, all of the people who use arenas in

Ontario will be assured that the safety standards under The Industrial Safety Act will be met this year and will be maintained.

[3:45]

It might interest you to know that of our suspect list of 407 arenas, 85 have been certified safe by the consultants, another 37 certified safe with only minor repairs required and the remaining 285 are in the process of being repaired and are being monitored. I can't find the number of those that have decided they must close—we will get that number for you however if you are interested in it. It is a relatively small proportion of the total.

One of the reports that perhaps Dr. Ham's report overshadowed—at least one of the investigations or studies which perhaps Dr. Ham's study has overshadowed this year—is the complete review of the Human Rights Code, which has been initiated by the Human Rights Commission. In the past 14 years there have been 17 specific amendments to the Human Rights Code in this province and the commission felt very strongly, as we reported last year, that rapidly-changing economic and social conditions required a thorough and open discussion of the Human Rights Code with the general public.

A special committee of the commission was established to conduct a review and that committee has held 17 public hearings throughout the province since May, has received approximately 300 written submissions and during the course of its deliberations has heard some very interesting and, the members feel, unusual information which they had not anticipated would come to their attention. It is our anticipation as well that the commission will be reporting on the results of its hearings some time during December or early in January so that we will be able to report to the Legislature regarding the recommendations which they make in terms of the Ontario Human Rights Code.

The Ministry of Labour is also responsible for protecting the rights of women both within the public sector and the private sector at work and the women Crown employees office within our ministry has been continuing its affirmative action programme, correcting some of the sex-based imbalances in career opportunities which have traditionally existed within the public service.

The concept of affirmative action is also being implemented and fostered within the private sector, and the women's bureau during International Women's Year—which was 1975—contacted 180 companies in the private sector. In 150 of those instances the

contact was initiated by the bureau, but in 30 of them the companies themselves initiated the contact with the staff of the women's bureau. In this year, the women's bureau is continuing to assist somewhere between 65 and 70 companies in the further development of their affirmative action programmes.

We have had this year—just a short time ago—a very significant discussion paper produced, the discussion paper on the matter of equal pay for work of equal value. The subject was raised during our discussions of estimates last year and I reported at that time that a ministry subcommittee was looking at the problem, would be reporting to us early in the year and that committee did just that. The report raised more questions than it answered and we therefore appointed a task force within the ministry to examine the whole matter of equal pay for work of equal value, methods of implementation which might be devised, etc.

That committee has worked extremely well and has produced a document which I commend to you for your perusal and deep consideration because, while there has been a great deal of discussion about this principle, there has certainly been some degree of confusion about the difference between equal pay for equal work and equal pay for work of equal value. I don't really think that I need at this time to go through a list of differentiations between those two concepts but I would recommend to the members of the committee that if it's possible, they examine the document which has been produced for discussion purposes and give the Ministry of Labour the benefit of their consideration of the matters contained therein with the hope that we will be able to solve this problem in an equitable way for the people of the province.

One of the interesting things we did learn in our careful consideration of the problem was that indeed those jurisdictions, in which legislation said to be equal pay for work of equal value had been enacted, had produced legislation which looks almost exactly like our equal pay for equal work. We have a little bit of difficulty with the ILO convention which has been ratified, if we are to move to the basic concept of equal pay for work of equal value which, as you all know, is based upon a job evaluation programme which has to be objective and has to be as accurate as possible. Therein lies one of the major difficulties.

Members of this committee who have attended other meetings of the estimates

committee at which the estimates of the Ministry of Labour were presented will have noticed that we are missing one of our important staff members this year. Ethel McLellan is not with us today. As you're probably aware, Ethel was the executive director of women's programmes within the Ministry of Labour. She was responsible for women Crown employees as well as the women's bureau. In August, she left us to take up new responsibilities as the assistant deputy minister of the Ministry of Education. We're very pleased that Ethel has demonstrated that our affirmative action programme is working that well. At this point in time, there is a competition going on to replace Ethel in that role.

I feel that I have touched upon only two or three of the things that have been rather stimulating, interesting and of grave concern to the Ministry of Labour this year. I intended to make my opening statement extremely brief because I believe that these meetings are held for the purpose of answering the inquiries and the questions of the members of the committee who will wish to direct them either to me or to the staff. We will be very pleased to answer your questions and hope that the answers we produce will be entirely satisfactory to all.

Mr. Bounsall: First of all, I think this is the appropriate place to pay tribute to Mr. Arthur Brunskill, the registrar of the Ontario Labour Relations Board for so long. I wish to state at this time our party's sympathy to his family, his colleagues and all his co-workers. He will be missed by them all, and it's certainly a loss to the Province of Ontario.

I remember the estimates of a year ago when you were a new minister in the post and we were—at least I was—speculating as to how you would conduct yourself in the post. I looked forward at that time to some real action, you being a woman, in the women's field in the ministry. Although we have produced a study document on equal pay for work of equal value, I can't see any other step forward meaningfully that's been taken by you to help women in this province in any of those areas that come under your jurisdiction, which is to be regretted from the point of view of women in the province. It is a real failure on your part to do something which you so enthusiastically stated was one of your major interests when you took over the ministry and last year again in the estimates.

One other area concerns me. I mentioned very clearly last year that I was looking to see in which way you would develop as a

labour minister. I mentioned that we had two previous ministers, one of whom was very interested in the tough labour disputes that arose in the province and involved himself directly in it. Another one didn't appear to be so involved but took a very great interest in the legislation and legislative changes. I would have hoped that you would have involved yourself in both. I haven't seen much evidence that you have in either. In fact, apart from just two weeks ago introducing the bill on health and safety, you haven't introduced one other labour bill. In over a year you have not introduced one legislative bill in the labour area.

That speaks for itself in the amount of interest which you have been taking in the labour legislation of this province. One of the areas of prime concern to me at the moment, and in a sense it speaks, I think, to a major deficiency in you as minister in the other area that I mentioned—that is getting in and involving yourself rather intimately in the labour situations in the province, which have become tough situations—is the deplorable situation of the public health nurses in the province of Ontario, and their plight in trying to achieve contracts in this province.

Of the 37 public health units that are represented by the Ontario Nurses Association, one settled after a lockout. In virtually all of these cases, their contracts ran out at the end of December, 1975. One settled after a lockout—that was Peterborough—partly as a result of immense public attention to their plight brought about by that lockout in the Peterborough area. The board members, I understand, were quite besieged by community people urging them to settle that strike situation, and they have now signed a one-year contract in which they have parity. Six others, Grey-Owen Sound, Haldimand-Norfolk, Leeds-Crenville-Lanark, Peel, Perth county, and York regional managed to persuade their board voluntarily to go to arbitration. Peel's arbitration has not been heard yet. The decision on Perth came down today and resulted in parity with the nurses in the hospitals as the major point in the arbitration; and in the others wage parity has been achieved.

But the problem in them all is that these are contracts which pertain to the end of this year. They are all, in effect, again in a new bargaining position less than two months before their contracts, all of them, end and they should be seriously considering next year's contracts. So even those seven, the one which settled voluntarily and the six which are in some form of agreement or have gone

through arbitration, are in another bargaining situation virtually immediately.

In terms of the arbitrations which pertain—the four which have come down before and then Perth is the fifth today—one has been through the Anti-Inflation Board, and the Anti-Inflation Board—this being the York regional—has in fact rolled it back; not drastically, but over a two-year period, and this doesn't mean that it doesn't run out again in December, 1976. It goes back over a long period. They have come from the parity position of 36.97, almost 40, down to a rolled-back position of 28.8. So the AIB has rolled them back from the parity position. The arbitration boards have granted it, the AIB has rolled it back.

There is another which settled for a year-and-a-half contract—Northwestern—which one should perhaps not include in that if you're making it a different subtraction. But the problem there is their contract ran out September 30. They are, like the rest, sitting without a contract. So there are 29 public health units in our province which are unsettled at the moment, which have been trying to settle, with the exception of Northwestern, since the beginning of this year.

It's a deplorable situation. The frustration and the anger on the part of the public health nurses has certainly been mounting over this time. Several of the units have been locked-out. The minister's statement today, which was greeted with some enthusiasm, in fact does not solve the problem of their achieving their contract, and it in fact does very little to help, when you recall that the same parity offer was made, the same type of announcement was made, moneys being placed in public health budgets in the fall of 1974, and of the 44 health units across the province, over 90 per cent, only eight accepted the money.

[4:00]

So as for the announcement of today, that sufficient moneys would be put into the provincial share of the budget so that they could pay parity, recent history would indicate that that is not going to result in a settlement. Only eight out of 44 accepted the funds back in 1974—an effort which was made much earlier in the year in 1974 than what this one is in this particular year. In addition, the minister made clear today that the extra moneys that are being put into the budget and are being offered to the public health boards to achieve parity perhaps, is that proportion of the provincial budget only. That doesn't help in places like Toronto, where only 25 per cent of their operating

funds come from the ministry and 75 per cent come from other sources. To say, "We will make you an offer in that portion of the budget which we give"—in Toronto's case 25 per cent—"we will put enough funds in there for you to achieve parity." They still have, in the boards' minds, the problem of raising 75 per cent of that parity amount from their normal sources. So it's not going to have much effect.

Let me just state some of the amount differences, which are quite considerable in some of the boards. I won't run through all of the 37 represented by the ONA, but for the four boards in Toronto, Etobicoke, North York, York and Scarborough, all of them are more than \$3,000 behind for equivalent nurses in the hospital situation. The amounts being paid there this year are \$13,380, and in each case the moneys paid to RNA's those four boroughs are less than \$9,000, and in Scarborough's case the difference is \$4,224. In virtually all the rest of the cases, they are in excess of \$2,000. Were they, for example, in Metro Windsor-Essex board, to achieve parity, the payment would have to be in the vicinity of \$2,380, but they're considerably behind. This offer of supplying moneys for the provincial portion only of those budgets, which is what the announcement was today, will not in fact be the magic solution that is going to cause these boards to come to an agreement, and in the light of the past history of these boards' operations very few of them will feel inclined to accept it whatsoever. So the announcement of the ministry today does not in any way lessen the problem which is facing the public health nurses, in achieving a settlement.

Just who are these people? Again, most of them are women. It's a reluctance on this government's part to really deal with situations that affect women. Whenever we find a tough labour dispute rearing its head in the province, we can almost be sure that the majority of the workers in that situation are women.

Here we have our public health nurses again, a group almost solely women—not entirely, but almost solely women—and what sort of a service does this group of workers perform for us? When we look at it, although it's a service which is not recognized by the public at large as being fairly key, in point of fact it's a very key service in the whole health service delivery in the province, a service which, in fact, as the years go on, is going to grow rather than decrease. They're involved in prenatal classes, post-natal counselling, baby clinics, normal immunization

programmes that are occurring in the province of Ontario; let alone in this particular year the great involvement that will be occurring in connection with the swine flu inoculations. They go into pre-school assessments as well as school assessments in the area of vision and hearing. It is the very key to the development of any child to be able to pick up a hearing disability or a sight disability, either before they get to school so they can be treated and aren't disadvantaged in terms of their education, or when it occurs in a school situation.

I know of examples. I have one right in my own family where there was a learning disability problem, unrecognized for quite some time. It simply required the wearing of glasses. It wasn't until the examination of the presumably incorrect answers against the questions as copied on the page, that it was found out the person, a child at the grade four level, was copying incorrectly from the blackboard the mathematical and arithmetical computations to be done and only the answers were being marked. That turned up the fact that glasses were needed.

This occurred to one of the now adult members of the family some years ago, when we didn't have quite the public health programme which we now have in most of our schools. That should have been picked up a year to a year and a half earlier. It is a situation which is being picked up by the public health nurses of today. They don't do the diagnosis but they pick up the difficulty and refer it for proper diagnosis and treatment. It is a very key role across Ontario.

The home visits that are performed by the public health nurses are not a very high profile area in terms of the public. The convalescent patients, the chronic patients, the new mothers and the elderly are usually part and parcel of the programme. In some cases, the VON does it, but referrals go from public health to VON. In other cases, the public health nurses do it.

The whole VD testing and the follow-up of the VD programme, where you are not going to get many members of the public, I would think, standing up and giving testimony to the public health and the public health nurses in that programme, is of great service, I understand, to the province of Ontario. When one hears of the increasing incidence of venereal disease and the increased workload which is coming on to the province in this area, one can appreciate just how hard this sector of the public health nurses and the public health organization is working.

They get involved in family planning. They are involved in drug and alcohol abuse programmes and in the whole area of communicable diseases. The Health Ministry, for example, is trying to save money on its hospital budgets. They have made statements time and time again that the cost of giving health through the health services, through the hospitals, on their budgets, is such that they can no longer continue at the present level of service that has been given and alternatives must be found. This is going to increasingly fall on the public health sector.

These workers in the public health sector are key people now and are going to become more key in the future because of the range of services which they tender. This is the group of people we are allowing to be angered and frustrated in a way that has gone on over this year. This is one of our key sectors and we have been absolutely neglectful in trying to bring this matter to a head to help them secure their bargaining position and to secure a contract.

My major worry—and it is now coming through as frustration has mounted across the province as their dedication is being taken advantage of—is that these very dedicated workers are going to drift out of the field. The more capable they are, the quicker they are going to drift out. The more the opportunity they get, the more capable ones are going to go to a different sector of our health field. When those opportunities arise, rather than see themselves sitting anywhere between \$2,000 and over \$4,000 behind equally-trained people in the hospital situation and other health settings, these key people are going to drift away.

If the more capable ones drift away, you are left with the least capable in the field, and you are getting people going into the field who cannot get jobs in other locations. If this continues, what you are going to have is a down-grading of the quality of nurse and worker in our public health field, which is exactly the reverse of what should be occurring in our public health field. That trend, by whatever means, should be arrested; and the major reason for their drifting away is their contract situation. It's a really serious problem of concern to all Ontario in terms of the health delivery, that we are letting these workers be hammered in the way they have been hammered.

I am not convinced that you have done all that you can in this area, and the Minister of Health (Mr. F. S. Miller) has certainly not helped. The changes which were made in

July, 1975, in The Labour Relations Act allowed the Labour Relations Board, without an application to it, to determine bad-faith bargaining. There is ample evidence in my mind of bad-faith bargaining on the part of the boards in this field. What has happened to that provision under The Labour Relations Act which would allow the board to lay its own bad-faith bargaining charges?

I would suggest that in this case, in terms of the amount of consultation that goes on by the public health boards through the Association of Ontario Public Health Boards, that it's from that association the advice came in 1974: Do not accept the moneys which the province made available. It's the advice being given by that association which is causing much of the labour relations holdup in this area. I would say to the minister that she should seriously talk with the members of the Labour Relations Board to see if the bad-faith bargaining charge shouldn't be levied at the association—as well as with the individual boards—for the information which they are tendering to their constituent members.

I have great faith in the bargaining procedure, but when there's the amount of collusion that's gone on in this field, then those bad-faith bargaining charges are indeed warranted. Those bad-faith bargaining charges should be pressed by the group in Ontario that is able to do that on its own without even waiting for a particular case to have been brought forward, of which there is ample proof.

I would hope that you would continue to follow this up most thoroughly, and bearing in mind the persons that are involved, and the great, ever-growing need of them in our health system, that you don't allow the situation to go on any longer than it has, where we have 29 out of 37 unsettled for more than 10 months now, with workers in that situation becoming increasingly frustrated and disillusioned.

There are various kinds of solutions to it. They have proposed that they get to arbitration, and that they be given a choice of whether or not they wish to be covered by The Hospital Disputes Arbitration Act. That is possibly one route. Has the minister responded to that letter from the ONA asking her to consider that as a possibility?

[4:15]

In essence they are asking you to allow them to choose, on a voluntary basis, compulsory arbitration that's imposed under that Act. We have never felt that Act has been

very useful, but nonetheless I would be interested in the minister's response.

She responded in the House on the first day of this session that she really didn't feel she could send to arbitration this group of workers where the management in essence doesn't want arbitration to occur. Of course they don't want arbitration to occur. When each arbitration award is given uniformly now, it is parity with the nurses in the hospital field. I can't see what the minister's reluctance is. We certainly know what the reluctance is on the part of the public health boards. They are facing awards which may cause them to pay parity even though they have had for some months a clear indication from the Anti-Inflation Board that that parity position will, in fact, be rolled back; but you still won't even give them some sort of opportunity in that area.

I don't think it is the best area. There is no better solution in labour relations than an agreement, and an agreement on both sides to go voluntarily to arbitration is, of course, better than choosing one side or the other. But how does one get out of this situation for this group of workers?

You have to lay every other problem aside and address yourself to this one. This is too important. It is a rather small group, 1,100 workers or so, but it is too important a group of workers, in the work which they are doing, to be neglected in this way any longer.

Several of the things which the minister mentioned in her opening statement were of interest. Here again I was interested that you led off in indicating that the man-days lost in Ontario through labour disputes were in fact decreasing. I would hope that the public health nurses don't particularly take that stand. Again on that point, they have been rather responsible. They have an opportunity to strike, it is not denied them, but they don't want to strike.

There is a certain input from them and feeling from them that they would be in a weak position if they did, because they could go along for some weeks at least before the community really realized that their services were being missed. That causes them to think that a strike would not be at all useful and they have recognized that, but they also are dedicated enough still, in spite of their frustration and anger, not to really see that as a means by which they should settle this dispute. You have a group of workers who are not interested, as most workers aren't in fact, in terms of striking. Here again you have got one which is willing to put that down on paper and say "We don't want to

deprive the people that we have to serve of our services." They feel it is too important, even if not many people in the community also realize this. They have chosen not to strike for both of those reasons, and I think one should take that very much into account in your attempt to settle this situation.

Returning to the number of person-days lost with respect to strikes in the province, you mentioned that it had been decreasing and it has quite regularly, and I again seem to give tribute every year in the estimates to the work of your conciliation and mediation branch who are largely responsible for the ongoing decrease in the strike situations that occur in the province. It needs, I say to the minister, saying more often. It is now traditional to at least say it in the estimates and give them credit, but the minister did once, last August or September in a major speech, mention that. I should say that it needs saying more often.

Perhaps as a throwaway line in every public speech that you are making, pay tribute to your conciliation and mediation branch because of the situations they have by and large effected across the province. They have helped to set the tone, helped to set the atmosphere in which contracts are achieved now without resort to strike. It is a building up process. They have helped to set the atmosphere over the years and they are now reaping the rewards of the atmosphere which they built up. They continue to build up that atmosphere. You need to make it particularly now because of the rather bad record that Canada as a whole has in person-days lost because of strikes. It's by and large because of strikes at the federal level, again continuing at the federal level, that pushes those figures for Canada high.

Certainly Ontario and all the workers under our jurisdiction in Ontario, which is I guess about 80 per cent of those that work in Ontario and come under the Ontario legislation, are not contributing to that high total, and you might point out, too, how good relatively Ontario's record is to the other jurisdictions.

Hon. B. Stephenson: We do, with regularity.

Mr. Bounsall: It can't be stated too often or loudly enough.

One is almost tempted to cover the whole waterfront in one's opening speech. One can't help but fracture it to several areas because the estimates are so fractured, but once again the minister mentioned the study

paper on equal pay for work of equal value and your task force. We were in the situation last year with you, particularly as a woman, hoping that you would take some real leadership in this field. Well, we have had a study paper. A task force examined it.

The task force has now produced a report, but if I was being queried by a group of women in this province as to what was happening in the area of equal pay for work of equal value, I would have to say: "Well this is what we have done. We had a study, we have a committee looking at it, the committee found it rather large in scope. We therefore had a task force on it and the task force has now reported. That is where we are." I think every group of women or every person in this province interested in the area of equality for women in the work force would be rather let down that nothing more than that had happened. They would smile and say: "Isn't that the way government always avoids addressing itself to an issue, get another task force working on it?"

But they could say: "Okay, you have got a task force and it has reported and what does it say? Does it really do anything for us? What are we going to do about it?" Well, it is a very good paper. To make very sure that it is not misconstrued as being a policy paper, right on the cover you make sure that it is only a discussion paper. Printing it right on the front defines the problem very well, all the areas and the various ways that one can arrive at the system of valuation for the province, but it doesn't make one recommendation. The last word that it says in this area is: "In our view, the urgency of the problem of inequity in pay between females and males, justifies that effort". That effort being there must be a definitive answer found to the question which the report brings up.

So the only thing which is of a positive nature, the closest it comes to a recommendation, is to say that the problem is urgent, it is important, and we should address ourselves to it. We knew that a year ago. We knew that three or four years ago, and all this does is state the position which has existed.

There are jurisdictions, as was pointed out time and time again in the work force, that bring into effect the equal pay for work of equal value. By jurisdictions I do not necessarily mean a government. I am aware that you found areas which looked as if they had the same provisions we have in our Act under the name of equal pay for work of equal value but did not.

You have a system with the Steelworkers of America where they in fact evaluate every

job in each one of their plants. It took them some years to develop it and all we are saying is that we have that example at least, as well as some others, to guide us in the valuation. What is stopping us?

A previous Minister of Labour said: "Well, it might take five years to cover the entire province with an evaluation system." That was an excuse for not starting that evaluation system then. This may lead you to believe it might take less than five years, or it might take seven years. The point is, no matter what time it takes you have got to make a start if any equality is to be achieved in this province between men and women in terms of what they are paid for the work which they are doing.

I would hope I don't need to overstress the point, but as long as we don't have legislation of this sort that involves an evaluation, you have in Ontario the work situation where, in a particular situation where men and women are working side by side and doing the same job, our legislation says you've got to pay them the same, but we still have the continuing situation, right in that same plant where that might be occurring, the men-only jobs and the women-only jobs in that plant.

There is a large difference between them and you know who gets the lower pay. It's not the men-only jobs in that plant, with no particular reason for it except basic inequality, a basic society attitude which says if it is a women-only job it can't be as highly paid, it can't be worth as much as a man-only job. The only way you are going to solve it is through the application of the systems which you've outlined here, and I don't think, Madam Minister, you should wait any longer on the commencement of a programme which will result in equal pay for work of equal value.

Get on with it. Make your choice of which of the four evaluation systems outlined in there are pertaining. Get on with one of them, or a mix of them. Make your own mix and get on with the job of getting that legislation and making it work in the province of Ontario. You cannot use the excuse because it might take some time to set it up that, therefore, we are not going to set it up at all.

Just on the women's area again, this year not being women's year we have heard very little about women's issues in this province in this particular year. I think higher priority needs to be given all the time to women's issues. I understand from what you said that continued progress is still being made with

the women Crown employees, the affirmative action programme there. We heard that last year and I believe that that is probably right.

I stand to be corrected maybe by some of the Crown employees. Having made that statement I raise the spectre of a whole bunch of women Crown employees invading my office to say, "What did you do, making that sort of statement? Nothing has been happening to my area." But for the moment I'll tend to accept your statement on that. Regarding the affirmative action programmes out in the non-government sector, I really wonder and really doubt if any large steps forward are being taken there. I believe with a great degree of certainty that you need to make a lot more effort in that area and make more money available for your women's bureau so that they can run more programmes in the province of Ontario.

It's mainly, in a sense, an educational programme we are going to have to run, and I do not believe we are funding that nearly strongly enough to achieve with the speed we should be achieving equality in the work place and recognition of women's skills in the province of Ontario. A lot more needs to be done.

I say to you, Madam Minister, make it one of your priorities. We haven't seen any evidence in this past year that you have. Maybe you have. I would be interested in you telling us precisely what other efforts you have made in this field that perhaps aren't recognizable to me. But I suggest that you should make a lot more effort than what is visibly being seen by observers of the area so that the women's bureau and the women Crown employees situation is of a high priority.

Health and Safety: We will come to the particular vote on that and I tend to feel that I should reserve my major remarks there, because some of them are quite detailed, but just as an overall view, we are still not sure of the form in which all of this melding of departments into the one branch is going to take. We have had the first initial bill before us and I am not going to debate that bill here, neither at the moment nor in the estimates when we come to it, but it's the first initial step only in that procedure.

I gather you have hired a director or a high level person—I don't know what you call him in this area—who has some very important background in the industrial health field. It rather still bothers me—

[4:30]

Mr. Bullbrook: Didn't the minister call him assistant deputy minister?

Mr. Bounsall: Assistant deputy minister now, that's the designation—it rather bothers me that the persons across the province—

Mr. Bullbrook: The reason I remember that, on my interjection, is I was responding at what the members' salaries should be today. You know, the questionnaire we had. I suggested maybe the assistant deputy minister, but I was reminded your fellow is getting over \$40,000 a year and we are not entitled to that. That was what made me think of it.

Hon. B. Stephenson: That's why you remembered the designation.

Mr. Bounsall: We could probably work those commercials into every ministry estimate in some way.

Hon. B. Stephenson: Yes.

Mr. Bounsall: But what bothers me is that the other ministry input in the programmes of industrial health and safety which are going to be run in this province, the consultation and the contacts with whatever committees you get set up in industry, that then have to have contact with the ministry or the ministry officials going in there; I don't think I have heard of anything from the ministry which indicates that more personnel are going to be hired. I'm delighted if that is the case, and if that increase in personnel is going to be industrial hygienists for the people who are in the field.

The statements made indicate the people who are field workers for construction safety and industrial safety, and the way in which they have operated in the past in terms of contacting management and so on, don't thrill us with their attitude in the past. But as for those field work persons whom we feel could have been better in the past, maybe the new legislation will spur them on. However, I haven't yet heard of the government deciding, or your ministry being allowed, to hire for that field workers who in fact have some real expertise and knowledge in industrial hygiene. Unless you do that, I would suggest your programme is going to have difficulties no matter how correct or incorrect is whatever legislation which comes before us.

If those types of hirings don't take place, we still are not making any meaningful attempt to really come to grips with the industrial health and safety problems which exist all across this province.

Another area, which is again before my attention, is the whole area, which we have again spoken on for many estimates, and that

is the area of first contracts. We have a situation in Windsor where K Mart workers—again mainly women—have been out for 23 weeks, I believe, in two stores, in the first attempt to really organize any K Mart stores in the province of Ontario. The company is resisting very strongly the introduction of any sort of contract at all, and they are very close to running out of time with respect to the one-year provision, by which they can in fact be decertified.

That type of situation should no longer be allowed to exist. You have ample evidence from other jurisdictions as to the kind of legislation which you can have in terms of first contracts. There are ways in which you can phrase the legislation. I would think that, without having to go to an arbitration board, one of the solutions is to impose a first contract when, after so many months, agreement cannot be reached.

There is one solution in which you can just take into account the workers' pay in that particular field, and the wage rates in the area and say this will be the base salary. That first contract, automatically giving job security and automatically placing seniority rights, would resolve most of the first contract disputes without the breakdown of labour relations leaving bitterness for years in the community.

I followed with interest what has happened in BC with respect to the application of first contracts in situations, because there was a worry at some point that all this was doing was shifting the problems that occur on the attempt to get a first contract to the second contract position. I gather that BC's experience has been that over 70 per cent proceed through to a second contract without resort to a strike. Over 70 per cent. So the imposition of the first contract, if an impasse has been reached, certainly appears to be working in terms of achieving labour peace and achieving some sort of benefit to the workers in that community, and eventually to the management as well where the situation would degenerate.

Mr. Yakabuski: May I ask, when you referred to BC, were you referring to the labour dispute in the food chains?

Mr. Bounsall: No, I am not. I referred to the labour dispute in a K Mart store in Windsor, which was the type of situation which would have been solved by some first contract legislation, and I was saying that BC has a type of first contract legislation.

When a first contract hasn't been achieved by a certain date and one has imposed a

first contract, the worry was that perhaps the dispute just moves on to the second contract time. The statistics from British Columbia now show that over 70 per cent of those situations that have had a first contract imposed on them, had in fact settled the second contract without resort to a strike. I wasn't referring to a specific food situation in British Columbia. The one it would apply to that I mentioned would be the K Mart situation at its store in Windsor.

Mr. Yakabuski: Because I know they have driven all the shoppers from the Vancouver area over to the US to buy their food.

Mr. Bounsall: It is not the same situation.

Mr. Yakabuski: No, I just mentioned it. They are going over there and buying their groceries; over to the small towns in the US.

Mr. Bounsall: The other area would interest me. You have intrigued me a bit today here. You say a couple of times that you are going to be reporting to the Legislature, either in the near future or, in the case of the Human Rights Commission, reporting in December or January. I would like the minister, in her answer to this, to indicate if she means by that phrase that she is going to bring in legislation?

I certainly hope that is what the phrase means under the Human Rights Commission in response to its findings across the province. It is long overdue. We were promised, in the fall of 1974, some major revisions in the Human Rights Commission Act, which when it didn't come, in the spring of 1975, the commission itself decided that it would go and receive submissions from the public.

I was, of course, chagrined that they took that position because I could see it delaying the legislation which had been promised for so long in the human rights area, and felt the commission didn't need to do that unless, as I have heard, it felt it had to do that in the field of discrimination on the basis of sexual inclination, that they didn't have enough input at hand either through their local offices, because it wasn't an area covered, or directly at the commission level, to be able to say categorically that that was a problem area. It is an area which those of us who sit around here agree, by and large, should not be grounds for terminating one's employment and so on.

There are private members' bills—I have one as well—in this area. I felt let down that they did that. They are finally, as you say, about to report, having made their surveys, and I would think your statement that you

are reporting to the Legislature in December or January means that you are, in fact, bringing in legislation in the area.

On that same point; are people on that study task force around the province, hearing briefs, being paid an adequate per diem salary and adequate expenses? I would think they are being paid less than our members get on select committees, and seeing that their time is virtually volunteer, if they are not getting a reasonable amount of money for what could be quite outstanding recommendations, I would hope that would be rectified retroactively. I bring this up because under the statement you made about the Franks commission, the report on province-wide bargaining in the construction industry, you used the same phrase, saying you would be reporting to the Legislature shortly.

I am quite interested if that means that you are bringing in legislation in the province of Ontario imposing province-wide bargaining in the construction field. There have been problems with it already in one of its operations, that is, the iron workers. I was in your office some months ago with representatives of the iron workers, indicating what some of their problems were having now signed a province-wide agreement.

You have said you haven't had much derogatory comment or unfavourable comment over the concept of province-wide bargaining in the construction industry. That has been the opposite to what I have found. I now have a considerable pile of letters by people in the construction industry, from certain locales, very concerned about the fact that legislation might be brought forward in this area. I can't quite understand how it is that our letters differ in this regard. I recall that just a short time ago all of the Hamilton construction industry went on record, through resolutions of whatever body formulates their resolutions, opposing the recommendations of the Franks report on province-wide bargaining. Now at this point, I am just a little bit surprised that there is that disagreement of feedback from the construction industry between yourself and myself.

Secondly, are you in fact bringing in legislation? I don't know what your personal thoughts are, but I thought that the Franks report, in its recommendations for province-wide bargaining, was meeting an inevitable situation which will arise in Ontario, and in fact the recommendations were good. But I am now being told the other side of the argument and am now not nearly as sure as I was. If the minister has not received much negative comment and input and is bringing in legislation—or planning to in the near

future—perhaps you might check a little further. I am getting the negative comments and the negative resolutions passed by construction worker units across the province.

As for the minimum wage—I was at that at one point and got back on to the BC first contract situation—I was rather appalled to find that really the basis on which one starts in Ontario to determine the minimum wage is roughly to take a figure of 40 per cent of the average of salaries and wages in the province and do some small fiddling with that 40 per cent level, but basically the starting level is that position. That is opposed to what I have argued here for some time, that we should be adopting the Manitoba situation, which is simply pay 60 per cent of the average of salaries and wages when they adjust their minimum wage.

If that was being paid in the province of Ontario now, using the Manitoba formula for the minimum wage, the minimum wage in Ontario would be close to \$4—\$3.92 to be exact. That is the level that I think the most industrialized province should be meeting in terms of basic minimum wage. The attitude should be that that 60 per cent figure is the proper level to be working on.

[4:15]

We have a province that does it and seems to have no problems with it at the moment, rather than what we were told. Finally—last year for the first time—you start at the 40 per cent level and may make some adjustments to it depending upon the particular thoughts and feelings at the time.

One other area that again we keep referring to time and time again in the area of legislative concern is various sectors of The Employment Standards Act itself, particularly the termination pay section. I hope we are going to hear from you that you are, in fact, about to "report to the Legislature," if that means presenting legislation, in the termination pay section of this Act. It is so outdated now in so many ways that it simply cries out for revision. It perhaps pertained very well at the time back in 1968 or 1969, at the time of the rubber situation here in Toronto when we had no provisions, but it certainly is not adequate to the situation now.

There is simply not enough termination pay paid and no provisions for termination pay if a company should go bankrupt. We need a very small termination pay fund in which all employers contribute probably a minuscule amount to help out in those situations where pay was required to be paid at the time of a bankruptcy. We tend to get the

argument on this: "Well, we are still trying to work with the federal government to work out some scheme that melds properly with the unemployment insurance situation."

I feel that the employers of Ontario should collectively be responsible for it by a small sum donation. It would be a fraction actually, for the number of bankruptcies which occur in Ontario affecting groups of workers, a small amount compared to what they pay for the Workmen's Compensation assessment, and they should be collectively responsible for it. In many cases, it isn't inefficient operations or unskilled operations of other employers in Ontario but poor corporate behaviour where they have fled, in fact, to another jurisdiction or have, in Ontario, a plant which is operating efficiently and making money for the multi-national company but their operations in other countries have pulled the plant to a bankrupt operation.

Again, Madam Minister, we are ranking fifth and tied for sixth in the legislation pertaining to when overtime pay commences, which should be at 40 hours rather than 44, and where overtime hours start, which should be 40 rather than 48. Workers in Ontario should have the right to refuse overtime after 40 hours rather than 48 hours. It should be 40, particularly as it ties in with the employment situation in Ontario.

This has been so well documented so many times and I cannot see why the most industrialized province in Canada feels it's okay to sit in fifth and six place respectively to other jurisdictions in Canada with respect to those two provisions, those two minimum provisions which actually, in terms of the 48 hours level, become the standard overtime provisions for the province of Ontario.

The older the worker gets, the more attractive it becomes to work a 40-hour week or less and they are still required to work the 48. They are still required to work more overtime than that in all those situations where the average of 100 hours' overtime beyond the 48 has still not been achieved in the year. Then, in many plants, as you know, all the company has to do is apply to you for a certificate to work hours beyond that. We have situations in Ontario where people are working more overtime and overtime and overtime, and they have no way out. They simply have no way out.

Mr. Haggerty: Without consulting the employees.

Mr. Bounsall: They simply have no way out. In many of those instances you could point to where that is occurring you can

clearly determine that more workers would be hired, helping your unemployment situation, helping our economic situation in Ontario, by the employment of those workers if they weren't allowed to go through the 48 hours and then the 100 hours average and then the overtime permits. The overtime permits and the 100 hours are bad enough, but the 48, ranking us tied for sixth in the jurisdictions in Canada, rather than the 40, is really not acceptable any more. I think I will end my general remarks there and pick up all the rest under the appropriate votes.

Mr. Bullbrook: Shall we continue until we are called by the whips, Mr. Chairman?

Mr. Chairman: Yes.

Mr. Bullbrook: Thank you. Mr. Chairman, I want to make comments not as specific in detail as my colleague for Windsor-Sandwich, but dealing to some extent with the same general attitude, I want to compliment the minister on her work with respect to arena roofs. I think frankly that her industrial relations programme, her conciliation and mediation services have been fine. I have never really had the attitude that those services convey the portrait of a minister. They are a function of professionals and we have always been blessed in Ontario, in my personal experience and legislative experience, with some of the best in North America. It's the stamp of the minister that I am interested in. It is what I would think I would want to see happen if I were Minister of Labour, because as I have said a great many times before, there is no portfolio that is painted in shades of grey. There is no black and white in labour relations. There is nothing that is absolutely true in labour relations. The collective bargaining process isn't true. We know that, and I think there is no portfolio in government that lends itself to direction more than the Ministry of Labour.

In matters such as minimum wage it is easy enough to say that we must constantly elevate the minimum wage. I subscribe to the need as a politician to satisfy the essential material welfare of the working person, but I have to recognize that doesn't exist in a vacuum. Our tourist industry has gone down 18 per cent in the last year. That is where the shades of grey come in in the Ministry of Labour and that is where a minister has to respond, I think, to what sometimes can only be characterized as unduly definitive statements by some members of the Legislature.

Matters of equal pay for work of equal value. Do you know what that always makes me think of? It always makes me think of

matters of unequal pay for work of unequal value. The dichotomy in that is, that concept, is taken from the writings of Chairman Mao.

Do you know what has happened to us under the collective bargaining process? We have collectivized people. We have classified them to such an extent.

Finally we are starting, under some contracts now, to recognize an elasticity that will benefit the individual, that will give credence and substance to the concept of unequal pay for work of unequal value. That's the kind of flavour that I like to see in a Ministry of Labour. That is where I would like to see us going.

When my colleague the member for Essex South (Mr. Mancini) and I were given the responsibility to become the official critics for the Liberal Party, I said to myself, where do we go? On the one hand, we have the power of government vested within the Conservative Party; on the other hand, we have just about a bilateral arrangement between the leaders of organized labour and the New Democratic Party. Where do we fit in, if at all? I advised my leader that we fit in by attempting to provide some type of direction as to where the ministry should be going, what, practically, it should be doing and what, philosophically, it should be looking at.

So, just a short time ago, we attempted to put forward for your consideration certain private legislation—that has tremendous deficiencies in it, we knew this. I recommended that we put these bills forward and I told my caucus colleagues that there were deficiencies in the legislation.

I'm not entirely happy with the technological change legislation that I recommended. I don't think it's really worked that well on the federal level, but in essence, the attempt has been to at least give something concrete for discussion.

I want to record a letter now that was written by David Archer, the president of the Ontario Federation of Labour, to the hon. minister, dated November 1, 1976. It has to do with the Domtar decision.

If I might digress in that respect, I say with respect to the day of protest—

Hon. B. Stephenson: Is it the Domglas situation?

Mr. Bullbrook: I'm sorry, Domglas. Quite right. I apologize. The Domglas decision.

I went out and looked at the day of protest in Sarnia. They sent down a young fellow from the Federation of Labour who

called for the resignation of my colleague, the Minister of Manpower and Immigration, my former law partner. This young chap from the Ontario Federation of Labour decided that Bud Cullen should resign. I just thought to myself, really, are you doing what you should be doing?

The day of protest to me had some great merit. What should have been done by organized labour was an educational process to point out the obvious failings of the Anti-Inflation Board and the undue intrusion on the collective bargaining process that the agreement between the federal and the provincial government has created; to try to educate the public to a sympathetic—in the literal sense of the word sympathetic—a sympathetic response by the public to organized labour's plight.

What happened in Sarnia is they marched down the street, walked around the post office several times, and took off to the OCAW hall to drink beer for the afternoon. That was really what it was.

Mr. Mackenzie: Nothing wrong with that, is there?

Mr. Bullbrook: My colleague says there's nothing wrong with it. There's nothing inherently wrong in going down to the OCAW hall and having the afternoon off, but if the intention of Mr. Morris and those under him was to sincerely, and with integrity of purpose, convey that there is something radically inequitable in the decisions of the Anti-Inflation Board and the undue fettering of the collective bargaining process, then I think frankly if I had been involved with it I would have done it a little bit differently. But in any event, Mr. Archer writes a letter:

"Dear Madam":—referring to the hon. minister—"judgement of the Ontario Labour Relations Board in the Domglas application for an order prohibiting the workers from taking part in the October 14 Day of Protest has drawn attention to the differences between 'strike' and 'lock-out,' definitions within The Labour Relations Act, and to similar differences between the definition of 'strike' in the Ontario and British Columbia Acts.

"The Ontario Act, section 1(1)(m), says that strike includes the following: 'Strike includes a cessation of work, a refusal to work or to continue to work, by employees in combination or in concert or in accordance with a common understanding; or a slowdown or other concerted activity on the part of employees designed to restrict or limit output.'"

[5:00]

The president underlines for purposes of emphasis the words "designed to restrict or limit output."

That's the end of the quotation of the section. The letter continues: "The underlined words 'designed to restrict or limit output' are presumably the sole purpose and end of strike action and constitute the sanction referred to by the board. The Ontario Act, section 1(1)(i), however, in its definition of lockout adds certain words describing purpose or objective which are not found in the Ontario strike definition.

"The Ontario Act defines lockout as follows: 'Lockout includes the closing of a place of employment, a suspension of work or a refusal by an employer to continue to employ a number of his employees, with a view'—and I emphasize, as does Mr. Archer—"to compel or induce his employees"—that's the end of the emphasis—"or to aid another employer to compel or induce his employees to refrain from exercising any rights or privileges under this Act or to agree to provisions or changes in provisions respecting terms or conditions of employment or the rights, privileges or duties of the employer, an employers' organization, the trade union or the employees."

"These additional words, which are underlined, very clearly narrow the meaning of lockout considerably when compared with the broader definition of a strike. Counsel for the union argued that such words should be read into the strike definition, because logically strike action is carried out for the purpose of obtaining concessions from the employer"—I emphasize that—"or some other employer and that in the case of the Day of Protest withdrawal of services was completely unrelated to the action of extracting concessions from the employer.

"For the lack of such words in the Ontario Act the board held that there can be no carving out of the right to strike over issues related to employer-employee relations. In other words, the purpose of the Ontario Act, which is to avoid disruptions in production and to promote industrial relations harmony, rules out any transformation of the strike from an economic to a political weapon."

I took off my glasses there to emphasize this. I'm sorry, that's the gut issue here. The letter goes on: "The board, however, recognized the validity of conducting a Day of Protest against the federal government and refused to issue a restraining order in the event that its declaration of an illegal strike might later be overruled by the courts. The effect of a restraining order would then have

interfered with the exercise of a basic political right and, the day having passed, unions would have no legal remedy. So by reason of balance of convenience the board issued its declaration that the Day of Protest withdrawal of services constituted an illegal strike but advised the company, because of the short disruption of production involved, to seek any recovery of damages through the grievance arbitration process.

"A straightforward amendment to the Ontario Act which added the words found in the lockout definition to that for a strike would produce equity between the two definitions. The Ontario Federation of Labour urges you to amend The Labour Act by adding the words used in defining lockout to the definition of strike."

The only reason I read that is because when we put forward our draft legislation several months ago, we didn't realize at that time there would be such an immediate impact with respect to at least one of the bills. I want to read the explanatory note to Bill 113 that I proposed for the consideration of our colleagues in the Legislature. It defines clause 1(i) of section 1(1)(i) of the Act, which I've read to you already. It goes on to say: "This bill treats a lockout in the same objective manner as a strike in relation to the test for determining whether or not a lockout has occurred."

The point I make there is one, I suppose, of collective self-adulation; not for that purpose but to show that there is some merit in this. It is perhaps not purposeful merit but at least practical merit.

By the way, I don't really believe that my bill is without deficiency, I want to tell you also. I think it should go a little further really to cover the situation Mr. Archer wants to have covered but it was basically an intention. What I'm saying, and carrying forward from the member for Windsor-Sandwich, is that bringing in one bill a year, and maybe it's two—I think I said to you the other day when you brought in The Employees Health and Safety Act, "That's your first one, Madam Minister," and I think you said it was your second; so maybe it is, I'm not sure.

Mr. Bounsall: The other one was in Health.

Mr. Bullbrook: The other one was in Health? Oh I'm sorry, it was in health. Then you were misleading me, obviously, because we were only talking about Labour.

Hon. B. Stephenson: Oh were we? Well that's fine. You didn't define that at the time, and knowing your legal propensity for accurate definition—

Mr. Bullbrook: You were wearing your other hat. You wore two hats at that time, if I remember.

Hon. B. Stephenson: It's better than having two heads though.

Mr. Bullbrook: You are getting known for what's called the "Stephenson witticism". That reminded me of the one the other day to Michael Cassidy, something about motor mouth. I don't really think that that's going to stand you in good stead, but that, frankly, is a digression.

In any event, may I say to you that I don't think the fact that you don't bring in any legislation is of itself necessarily a touchstone of approbation. I don't think it is. Having been here for about a decade, I can remember dealing with cabinet ministers on a more social level and they used to play games with each other as to who could get in the most legislation. No doubt about it, Stanley Randall just loved legislation, and that's one of the reasons why our budget has gone from \$2 billion when I was first elected to about \$12.3 billion now. He had legislation coming in there that cost the taxpayer and still is costing the taxpayer money.

So legislation of necessity isn't, as I say, the mark of a good Minister of Labour. But when you have a portfolio that really has been thirsting for amendment, the fact that you don't have amendment—and I use as one practical example, Private Bill 113—I think frankly doesn't stand either the minister or the ministry in good stead. I really feel that this is the type of portfolio that requires active participation. It's almost a constantly evolving thing. The labour portfolio is almost a mirror of society's needs.

If I sometimes exude a sense of frustration I want to tell you why. I read the interim report by Mr. Franks on collective bargaining in the construction industry and by the way, I am going to give you my guess, before the minister answers, there will be legislation; reporting means legislation so far as the Franks report is concerned. I am going to give you my guess. It means wider bargaining in the construction industry. I am going to guess it doesn't mean province-wide bargaining. I am going to guess it means bargaining on a regional scale much wider than now provided. That's going to be my guess. We will see whether I am right. Because I think the minister is having trouble coming to grips with the concept of total province-wide bargaining.

To get back to what I was going to say before, I want to refer you to the Hansard

of Sept. 14, 1968, where we were doing the estimates of the Ministry of Labour and we were talking about the question of bargaining in the construction industry, because nothing has contributed to the inflationary cycle in the Dominion of Canada like bargaining in the construction industry, and make no mistake about that. I was right in the middle of it in those days, because we would wait in Sarnia till Hamilton had concluded at \$5.35 per hour, then they would bargain for \$5.65 in Sarnia. I'm just using these general figures, let's say for an electrician. Then they would do Toronto, and before you were finished with Toronto, the new contract came up in Hamilton and on and on it went. And the government blinked its eyes to it.

It was indescribable, because it was an industry that traditionally bargained on the basis of climatic conditions in our area, in which climatic conditions, because of technological change, had completely lost their impact. You couldn't pour concrete 20 years ago in some parts of Ontario. You pour it now whenever you want to.

Those workers can work almost nine, 10 months a year, sometimes 12 in Sarnia, and basically there was always a philosophy in the construction industry that they had to be extremely well-paid to compensate them for the necessity of being out of work in their chosen vocation because of our climatic conditions, amongst other things. That wasn't the only basis, but amongst other things.

We recognize throughout, the government recognized in those days, that the spiralling costs of construction were translating themselves into such a situation that the average worker couldn't buy a home any more. That was one of the problems. But in those days we talked about—I want you to refer to this—in September of 1968 we talked about the question of province-wide bargaining or at least regional bargaining in the construction industry. That has to give you some idea of why some members want to get out of politics. It really does.

I remember every year I used to say to the then great Premier Robarts and the present great Premier: "Let's have a select committee to look into labour relations in Ontario." Every year I would make the same speech.

Mr. B. Newman: Yes, it was getting monotonous.

Mr. Bullbrook: As a matter of fact it got so that as soon as I got up they would walk out. They knew what I was going to say. It got monotonous; and I still call for a select

committee to look into the problems of labour relations in the province of Ontario. But not just in the province of Ontario, because the basic problems of arbitration, the basic problems of collective bargaining, alternatives to the process, don't relate just to Ontario, but Ontario should lead the way, Ontario has to lead the way.

Mr. Chairman: Mr. Bullbrook, I understand we are due for a vote at 5:15 p.m.

Mr. Bullbrook: I thought it was 5:50 p.m.

Mr. Chairman: No, it is 5:15 p.m.

Mr. Bullbrook: Are we going to come back? After the vote?

Mr. Chairman: Yes.

Mr. Bullbrook: Thank you very much.

Mr. Bounsall: They are going to wait until you retire and then they can appoint you committee counsel.

The committee recessed for a vote in the House.

[5:30]

On resumption:

Mr. Chairman: Mr. Bullbrook, would you like to continue?

Mr. Bullbrook: I was talking initially about the practical aspects of the ministry and the philosophical aspects of the ministry and I just want—because of the time at not too great a length—to make a comment, before I pass on with respect to the public health nurses.

As my colleague for Windsor-Sandwich litanized the great value of the public health nurses to a significant segment of the people of Ontario, I couldn't but agree with him. It really is one of the strangest collective bargaining processes that I have been acquainted with in a long time.

If government has to make ad hoc decisions as to essentiality, which I think it does, that's really where the minister and I are allies, as against the member for Windsor-Sandwich and his colleagues. I just cannot understand why the New Democratic Party feels, it's incumbent upon it to dig in its heels with respect to the concept of compulsory arbitration in situations, especially one where it's requested and where it's not mandatory. Those are two considerations of the bill that I put in. I don't take credit for the authorship of that legislation. The record would know that and everybody in this room knows

it. The authorship, basically, of that legislation came from the Public Health Nurses Association.

We have made value judgements and we have to make value judgements at times. I found it very difficult at the initial stage to come to a conclusion that a garbage worker was essential to the public good, but it didn't take me many weeks to change my mind. There's no doubt about that.

So I believe, as does the Premier of this province as a result of public statements he made, and I do have the opportunity of a private conversation with him at times, but I believe in the philosophy that he has adopted and the present minister has adopted and that is that there's something repugnant in The Crown Employees Collective Bargaining Act that is defining everyone because of a generality that they are a Crown employee and depriving them of what I consider an essential right; that is, to collective bargaining and the terminal position concurrent therewith, the strike weapon. As I said at one time, the gardener at the county buildings in Sarnia isn't essential to the public good and there's no doubt about it.

But as the member for Windsor-Sandwich, as I say, catalogues the essentiality, not the public good or the value, but the essentiality of the public health nurses, and as he again so well catalogues the inequities to which they've been subjected, I believe there has been bad-faith bargaining. The problem with bad-faith bargaining to my way of thinking, and the initiation of recourse through bad-faith bargaining is that it's not really recourse. In the ultimate what it does is it conveys to the public whether or not there is bad-faith bargaining. It's the cosmetic results of an order so found that's beneficial, but it doesn't finalize the problem. I just say this, I wish that my colleague the member for Windsor-Sandwich and my colleague the hon. minister would consider the propriety of bringing in public legislation. I don't ask that the private legislation go forth. I don't think it's proper. I think government has to do this.

But bring in this legislation for two reasons. I exhort your consideration for two reasons. One is that it is voluntary. The request for it is voluntary. The second and paramount reason is that it's been requested per se on so many occasions where we've made the ultimate judgement as to essentiality we imposed compulsory arbitration in a unilateral fashion.

Mr. Mancini: School teachers.

Mr. Bullbrook: Yes, there are many examples of it. Here we have a request with respect to it. I said across the chamber to the hon. minister today, "Why is the hon. Minister of Health making a comment?" and she said, "Just be patient for a moment"—which is always good advice to me, I might suggest—but I saw immediately it was an attempt for provincial funding. As I attempted to say in the supplementary to my colleague, the member for Windsor-Sandwich's question in the House, the supplementary funding, the infusion of provincial funds, again kind of begs the question. It assists the public health bodies on the local level, or regional level, but it doesn't ensure that those funds will be used to bring an end to the dispute.

Frankly, I exhort you to consider the possibility of at least signalling, if you can, support to the government in bringing an end to the matter, if necessary by requested and compulsory arbitration.

I don't want to take too much more time but I do want to say this. I talked previously about what I felt the flavour of the ministry should be. Throughout my decade here I've always felt the flavour of the ministry should be not necessarily intermediate services in the collective bargaining process.

That's essential, but, as I said before, I cannot regard that as a professional group out there. Whether it's Bullbrook or Mrs. Stephenson or Bounsall, the minister doesn't really influence them in the actual day-to-day function they undertake. What she can do or what he can do, is that he or she—that is male chauvinism coming through; I always put the he first—can use the influence of her office.

That's something that this government has been unduly reticent about. That's something for which I always felt Bryce Mackasey deserved great approbation. He really wasn't afraid to lay it on the line. I think a Minister of Labour has to do that. Where do you define the termination of collective bargaining? I don't know. Again that's something that's significant to the factual situation. I'd never want to say three months or three weeks or three years. I would want to leave it to the discretion of the minister.

I think there's been an undue reticence, and this is what the member for Windsor-Sandwich was getting at—on the part of the Premier of Ontario, and understandably so. There has been an undue reticence on the part of the minister and her predecessors to involve themselves. There comes a time, I've always believed that the weight of the min-

istry really can tip the scales to the benefit of getting a solution.

I do think that this has to be done. It's a tough job. That's a toughie, because of the fact that you can make mistakes by intervening. You can do something at a time, but I'm sure there are times—I absolutely know there are times—when we are not aware of the advice given to you by your conciliation mediation services, so that we can be in the House challenging you to do this and you, because of the knowledge given to you because of your ministerial function, can't say to us: "Look, if you'll just leave us alone, we're just about there."

Honestly, in the public health nurses thing, I just can't believe, in my wildest imagination, that you have had continuing advice that you're on the brink of a resolution of the problem. The first step has to be the coming together, and the imposition, really, of your judgement as to who's at fault. The second one could be the question of an application with respect to bad-faith bargaining. I just kind of think in this particular circumstance it's gone too far.

When we undertook the job, my colleague the member for Essex South and I, we had, as I said, dealt with the practical aspects of legislation. We tried to put that forward. There were a lot of deficiencies and I'm sure that eventually we'll be involved in a debate on concepts that are contained in that legislation. We also attempted to have our research staff look at the question of where we're going in collective bargaining.

That's really what I have thirsted for over the years. I can't think of any more useful function that select committee could have undertaken—you know, to travel to Europe and to travel to other jurisdictions, to sift through, to analyze how they are trying to come to grips with the problems of collective bargaining. I think those would be dollars eminently well spent.

We've had prepared—I'd like to send it to you, though it's not in its final form, so if you'd bear with me—our research staff has prepared a paper, and I love the title, Beyond the Suggestion Box, that has to do with the question of co-determination. When it's finished I'm going to send a copy to you. It's an analysis of co-determination.

[5:45]

It asks the question; is there need for a change? I wish I had the time to read part of it. I will try to do so.

What will the Canadian response be? It gives a survey of the existing systems in

Germany, Switzerland, Sweden, Belgium, Great Britain, France, Italy, Yugoslavia, Japan, Ireland; the few inroads in North America that you are aware of yourself, and the German success story. It then makes an analysis of the German success story in the steel industry, comparing the systems. It comes to grips with the arguments against co-determination, that it won't work here because of the peculiarities of our system here as opposed to West Germany. The arguments for co-determination—

Mr. di Santo: It is because the labour movement is too weak.

Mr. Bullbrook: It is all here. When this is finished—it is in a rough form—frankly, I have not finished editing it, that's why. When it is edited by me I am going to make it available to whomsoever wishes it. I am not suggesting for one moment that we can necessarily make the concept of co-determination work, but I want to tell you something that relates on page 5.

"Between 1970 and 1974, international strike statistics show that West Germany lost an average of 90 days in labour disputes per year for every 1,000 workers employed. Canada's record is about 20 times that. During the four-year period we lost 1,732 days per year for every 1,000 workers employed. Only Italy, which lost 1,746 man-days, was higher. Since those statistics were released, we have even surpassed Italy."

Now we are getting a little better, slightly better, but if I may use a very poor analogy, it's like getting a little bit better from a terminal disease.

There's no doubt that we have to look at the process. When you get a bulldog like George Meany in the United States talking about the fact that the process itself is anachronistic; if you can get him to lead the way in that respect, then there are very few of us left who can say that the collective bargaining process is Utopian.

I don't know whether there is a substitute for it, but this ministry has to undertake evaluations over and above the concept, and I don't minimize the importance of equal pay for work of equal value.

Safety and health in industry, environmental health, all of these things are so extremely important and I don't dwell upon them at all. They will be dwelt upon under the votes, but what I try to convey, and what my caucus colleagues ask me to convey, is the fact that somewhere along the line the public is going to have to make a definitive

decision as to where it wants governments to go.

I happen to believe in the private enterprise system, based on some relationship between organized labour, recognizing parenthetically the dignity and rights of the individual, and I put that parenthesis in there as very important, because I used that strange phrase before, "unequal pay for unequal work". You know, the one thing that is bothering me, frankly, about happiness in the industrial complex, is the question of whether we have lost an assessment, through the collective bargaining agent, of the abilities of the individual. I don't know that, but it is interesting to note that when you assess the acceptability of the co-determination process, management doesn't like it very much.

Mr. di Santo: Doesn't like it at all in Canada.

Mr. Bullbrook: And the hierarchy of the trade union movement doesn't like it very much. Those are the two groups that don't like it very much.

Mr. di Santo: If you read the CLC determination at Quebec City, then you will see that they are forcing this issue and management is resisting—and of course—the government.

Mr. Bullbrook: The study that we have been able to do has shown, statistically—

Mr. di Santo: And if you read the paper written by Mr. Callaghan—

Mr. Bullbrook: That's referred to.

Mr. di Santo: Yes, which one of your people mentions; he mentions that.

Mr. Bullbrook: Well, I shouldn't—this is a good dialogue, but it is highly unfair to the chairman.

I will make this available to you, but really one of the strange dichotomies is that the leadership of the trade union movement doesn't like this very much either, because it truly is democratization of the process that doesn't necessarily exist at the present time. I am not saying universally they don't, but there certainly have been comments made by some people of significant influence in the movement with respect to it.

I want to end by saying that I don't regard this necessarily as the answer, but it certainly is something to be looked at. I thank you very much for the indulgence.

Mr. Chairman: Does the minister wish to reply?

Hon. B. Stephenson: If I might, briefly: It is intriguing to hear our colleague, Mr. Bullbrook, mention the activity that has probably consumed most of the time of the staff of the Ministry of Labour for the past eight months at least; our concern about the future of the collective bargaining process, our concern about the lack of harmony in spite of the fact that work stoppages seem to have been decreasing. The attitudes which are demonstrated on a regular basis, day to day, are not necessarily those which would make one believe that brotherly love exists between employers and employees.

Our concern about Canada's, and particularly Ontario's, economic position competitively has led us to a fairly careful examination of the entire area of employer-employee relationships and we have been deeply involved in this kind of examination. We have—without the benefit of the travel programme which is available to members of the House but not available to ministers and deputy ministers and our ministerial staff—examined as carefully as we can by means of documentation, the information which is available regarding collective bargaining in other jurisdictions, particularly those across various oceans, and we have been making notes. We have been fairly thorough in our deliberations regarding this specific subject.

It is something which I think is not going to be dramatically changed by legislation. It is going to be changed dramatically, if at all, by changes in attitudes of those who participate in the collective bargaining process. Perhaps the role of the Ministry of Labour in this area is that of connector, to bring employers and employees together to discuss the potential for improved relationships between those groups, improved industrial harmony; which we believe wholeheartedly will eventually benefit not only the people who are involved directly, but also that very important sector of society which is never represented directly at the bargaining table, the general public or the society in which the two groups function.

So that our attention has been primarily directed to that specific area.

In addition to that, we have looked at other problems, and the public health nurses problem has certainly not escaped our notice. It is one in which I have been personally involved; the deputy minister, the executive director of industrial relations and Professor Adams, have also been involved. We have all been pursuing what we felt was the best course at this time, and that is to attempt to assist the parties to an agreed-upon solution.

There is, as you very well know, a great deal of antipathy within the boards of health to any concept of arbitration at this time, not simply for those reasons that have been suggested, but for a number of reasons including the fear of diminution of local autonomous responsibility in terms of municipal, regional or county employees.

This activity is being pursued even now, because we do believe—and we have extracted a fairly firm promise from both sides—that if we can achieve an agreed-upon solution this time, that immediately the solutions are reached the groups will sit down together with the help of the Ministry of Labour to search for, and hopefully find, a long-term solution to a problem which is obviously going to be a recurrent one unless some better process is found than that which we have at the moment. Working on that principle, we are still providing mediation services to various boards and groups of ONA nurses in the public health field who request it.

The legislation which has been suggested and which has been introduced into the House by Mr. Bullbrook is an interesting piece of legislation which we have examined rather carefully and recognized that there are pros; and there are certainly some major cons as well. We are looking at those and will continue to look at them for the immediate future, while we are also attempting to provide the mediation services which may bring a solution to the present problem so that we can get on with the business of trying to find a better course for this difficult situation, which is obviously not going to disappear.

I was intrigued by Mr. Bounsall's concern about using the word "person" in all instances. Mr. Bounsall, I am and have always been a relatively activist female and I consider the word "man" to be generic. It is a heck of a lot easier to say than person in all of those instances in which you use person and I hope that some time all of us are going to be agreed that this is the right way to go. I am not sure that the staff of the women's bureau will agree with me wholeheartedly about that, but anything which eases and facilitates communication should be considered very seriously.

Mr. Bounsall: Use a different name.

Hon. B. Stephenson: Men?

Mr. Bounsall: Non-sexist.

Hon. B. Stephenson: Well think of another three letter word then, like cat or dog or

something of that sort, I suppose. I am not really quite sure. I think man is a lot easier.

However, I am very pleased that the affirmative action programme is moving as well as it is. It is certainly doing well within the Crown employees section, and I think it is doing very well—I have had some extremely favourable comments from the management level of some very large business institutions, most of which I would have considered to be totally and rigidly resistant to this kind of activity. They have specifically taken the time to inform me of their gratitude to the women's bureau for the leadership which they have been able to help them to provide within their companies. They are very pleased with the numbers of women who, as a result of this programme, are coming forward and offering their talents so that they can advance to middle management, and senior management positions. I think that it is achieving extremely well.

The problem, of course, is that the programme has to battle constantly about 6,000 years of human history in which women have been considered something slightly less than human. You will have to remember that it is only within the last 50 years, really, that women have moved from the chattel position on this planet to something other than that. I suppose we really can't expect to have the changes occur immediately and overnight. But I am extremely encouraged by the positive reaction to the programme which has been devised to encourage companies to provide equal opportunity for women in the job situation, and which assists the companies to find the women to fit those jobs for which they do provide the opportunity.

Mr. Bounsall: My only concern there, then, is having enough staff within the women's bureau so that they can make themselves available to more companies on a more continuing basis so that you would get a bigger section covered right away.

Hon. B. Stephenson: We share that concern. The constraint programme, with its complement restrictions, is a very difficult one to overcome at the moment; but that is certainly an item which is not forgotten at all.

The concern you expressed about first contracts is one which has been raised, I must say, within the past year, on at least one or two occasions, and it is certainly a matter at which we are looking.

As for your concerns, and Mr. Bullbrook's concerns, about lack of legislation, you will

recall that my predecessor in this office in 1975 did bring in some fairly major amendments to The Labour Relations Act. It always seems to me to be a reasonable thing to do when changes are made, to allow the results of those changes that occur to be examined and to be evaluated; and that is precisely what this past 12-month period has been utilized for.

[6:00]

We are looking at, and will continue to look at, the advantages or perhaps the disadvantages, of the amendments which were made in terms of the position of labour and management, in terms of the development of industrial harmony and industrial peace, and we will most certainly be making amendments in the future. I can't tell you exactly when that's going to happen, because we are looking at a number of the items which you raised particularly, and we will do so until we have developed a consensus within the ministry, which we do on a pretty democratic basis.

I don't know whether the staff enjoys it or not, but we have ministry meetings with great regularity at which we examine all of the ideas which are brought forward and toss them around and everyone is free to speak his or her mind, saying just whatever they wish to say, and most often they say it. But certainly this process is ongoing, and The Labour Relations Act is one of the objects of our fairly concerted efforts at the moment.

There are others, of course: The Employment Standards Act; the two specific items which you mentioned; the termination pay and overtime, we are in the process of reviewing right now, and that I am sure will come to fruition in the not-too-distant future as well—

Mr. Bounsall: You won't use that phrase—

Hon. B. Stephenson: —and we will be reporting to the Legislature.

Mr. Bounsall: Reporting to the Legislature?

Hon. B. Stephenson: I am sure I will be reporting to the Legislature about them, yes.

Mr. Bounsall: In the near future?

Hon. B. Stephenson: Well, it depends on your definition of near, I guess.

Mr. B. Newman: Future; near?

Hon. B. Stephenson: No, future yes; we can't do it retroactively I am sure, but we can do it in the future.

Mr. B. Newman: Every time is the future, so it could be a year from now.

Mr. Chairman: Order, please.

Hon. B. Stephenson: Well, I don't think it will be years from now, as a matter of fact. I hope that it will be in the relatively near future, if that helps you.

Mr. Chairman: It being 6 o'clock, I do now leave the chair and we will resume at 8 p.m.

The committee recessed at 6:04 p.m.

CONTENTS

Thursday, November 4, 1976

Ministry administration programme	S-2749
Opening statements: B. Stephenson, Mr. Bounsall, Mr. Bullbrook	S-2749
Adjournment	S-2771

SPEAKERS IN THIS ISSUE

Bounsall, E. J. (Windsor-Sandwich NDP)
 Bullbrook, J. E. (Sarnia L)
 di Santo, O. (Downsview NDP)
 Haggerty, R. (Erie L)
 Mackenzie, R. (Hamilton East NDP)
 Mancini, R. (Essex South L)
 McNeil, R. K.; Chairman (Elgin PC)
 Newman, B. (Windsor-Walkerville L)
 Stephenson, Hon. B.; Minister of Labour (York Mills PC)
 Yakabuski, P. J. (Renfrew South PC)



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SUPPLY COMMITTEE—2

ESTIMATES, MINISTRY OF
THE ATTORNEY GENERAL

OFFICIAL REPORT — DAILY EDITION

Third Session of the 30th Parliament

Thursday, November 4, 1976

Afternoon Session

Speaker: Honourable Russell Daniel Rowe

Clerk: Roderick Lewis, QC

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CONTENTS

A list of the speakers taking part in the debates in this issue of Hansard appears, in alphabetical order, at the back of this issue.

Daily contents of proceedings also appears at the back of this issue. Reference to a cumulative index of previous issues can be obtained by calling the Hansard Reporting Service indexing staff. (Phone 965-2159)

LEGISLATURE OF ONTARIO

SUPPLY COMMITTEE

THURSDAY, NOVEMBER 4, 1976

The committee met at 3:33 p.m.

ESTIMATES, MINISTRY OF ATTORNEY GENERAL (continued)

Mr. Chairman: The meeting will come to order. The chairman is going to make three brief remarks and then I am asking Gill Sandeman to take the chair.

The first remark is that I promise to get a haircut just as soon as these estimates are over. The second one is, I apologized by a note to Eddy today for being perhaps a bit rude or what not arising out of yesterday's colloquy; not in substance, I told him, but in tone. Third, on the move made late yesterday afternoon by myself, as both chairman and critic at the same time, if I were sitting again as chairman I would overrule myself. I think I am wrong, but I think we should proceed.

Ms. Sandeman: Do you want me to take the chair now?

Mr. Chairman: Yes, would you take the chair please, Gill?

Ms. Sandeman: I take it that it is the will of the committee that we indulge Mr. Lawlor?

Interjections.

On vote 1204, Crown legal services programme; item 1, Crown law office:

Mr. Lawlor: Under the umbrella of the Crown law office, yesterday we brought in several matters but one of the matters was having to do with a letter submitted by the Quakers concerning four young men who had been adversely, apparently, dealt with on bail proceedings, and their prolonged stay at penal institutions. Being unable to get bail was the subject of discussion.

I brought it under the umbrella of Crown law office. It possibly could have stood over for a further vote. There are other matters which I am now putting over to further votes; for instance JPs, which I thought could have

been brought in here, but it is probably just as well to get on with the votes.

I would like to deal with several cases. They were basically outlined and I supplied to the Attorney General and to the opposition a photostat copy of the document in question. In order to expedite proceedings, I wonder if there are any remarks on these cases, starting with Michael Martin, forthcoming from the Attorney General?

Hon. Mr. McMurtry: Well first of all, we have something on Martin because he was in my office and we had made some inquiries. As Mrs. Campbell acknowledged yesterday, the Friends were going to give me further information in relation to some of these matters in order to assist me in tracing the history through the courts. To date, I regrettably have never received this, so I think the only one we can assist you on today, in any event, is with respect to Mr. Martin. I am going to ask Mr. Rod McLeod, who heads up the Crown law office, to give you the information that we have so far as the facts are concerned, and the disposition.

Mr. McLeod: There are still a number of charges before the court with respect to Mr. Martin. He was originally charged, I believe on May 3, 1975, with a charge of false pretences. There was a second charge of false pretences on June 7, 1975, and a third charge of false pretences on June 8, 1975; the latter being in the Peel district and the first two being in Halton.

With respect to the first of three false pretence charges, there had been an appearance notice issued to him requiring him to appear on June 16, 1975, in provincial court in Halton. He did not appear at that time and a fourth charge, this time failing to appear, was laid in respect to that failure to appear. He apparently left for England prior to the court date of June 16 and accordingly was not in court as required on that day. As far as we can determine, he subsequently returned to Canada and there are two further charges in the Halton region, one dated July 24, false pretences, and one dated July 26, a charge of fraud.

His return to Canada was not brought to the attention of the police in the Halton region, with the result that he remained at large in Canada throughout the fall of 1975 and then was arrested by the York Regional Police in respect to an additional charge of fraud, on this occasion relating to an amount of some \$20,000.

Mr. Lawlor: When was that?

Mr. McLeod: January 28, 1976. There was a show-cause hearing, at which time he was represented by duty counsel, on January 30, 1976, in Richmond Hill court. After that show-cause hearing, at which the Crown attempted to obtain an order of detention, he was ordered released on a recognizance with two sureties in the amount of \$5,000, together with some other conditions, including a reporting condition and a requirement that he deposit his passport.

As far as we can determine, he was then unable to find two sureties which were deemed to be sufficient, with the result that he remained in custody until Saturday, April 10, notwithstanding the fact that there had been an order for his release. The only reason for his remaining in custody was his inability to provide the two sureties, at least insofar as we have been able to determine.

Hon. Mr. McMurtry: I am sorry to interject, but as I understand it, these two sureties only required a signature, they didn't require the posting of an amount of money.

Mr. McLeod: Quite so. Pursuant to The Bail Reform Act, this was simply a case of a recognizance without deposit. He then, on April 10, which was a Saturday, did provide two sureties and was released from the Don Jail. The following Wednesday, I believe, April 14, was then the first day on which he was required pursuant to his original bail order to report to the police. He reported to the police and was arrested at that time in respect of the number of outstanding warrants from the charges in Halton-Peel to which I have already referred.

I might also indicate at this time that the ordinary practice in a situation like that would probably be that he would not be released in the first instance, but as it occurred on a Saturday, that may explain why he was released and then immediately re-arrested. In the ordinary course he would simply not be released but would simply be placed in the custody of the police force from the region in which there were outstanding charges. There then was a show-cause hearing before a justice of the peace in Halton with

respect to the charges from the summer of 1975. He was ordered to be detained at that time.

Mr. Lawlor: When was that?

Mr. McLeod: The exact date of that I can give you in a moment, I don't have it in front of me. I believe it was on May 3, 1976, but I will check that if I may in a moment. There then, following that, were two applications by Mr. Martin to Supreme Court judges pursuant to section—

Mr. Lawlor: Obviously on the show-cause he was denied bail?

Mr. McLeod: Yes. He then made successive applications to Supreme Court judges on two occasions seeking a variation of that order of detention and both of those applications were denied, the Supreme Court judge being of the view that he should remain in custody in those circumstances. In the meantime, the York regional charge of fraud proceeded through the courts with a preliminary hearing, I believe on March 23, 1976, at which time he was committed for trial; and then a trial on July 12, 1976, which I believe ended approximately a week later. It resulted in acquittal. The first false pretence charge on the May 3, 1975, was heard in provincial court in Halton on July 21, and at that time the charge against him was dismissed.

Having regard to that dismissal at that time, the Crown took the position that he should be released at that time from custody, and he was released from custody at that time. He appeared again in court on October 13, 1976, and a trial date with respect to those remaining charges has been set for November 25, 1976.

He has, throughout, been represented by counsel; initially by duty counsel, subsequently by a defence lawyer from the Toronto area who was, I believe, retained for a period of time and then subsequently discharged and a second lawyer was retained. I regret that I don't have all the details of all the court appearances on all those charges to be able to advise you with precision as to whether any adjournments that did occur were at the request of the Crown or the defence. It simply hasn't been possible in the time available to get all that information. As far as I can determine, the matter has proceeded on the dates which his lawyer on each occasion was ready to proceed.

[3:45]

Mr. Lawlor: Just two things; obviously this young man, and particularly his appeal to the

Supreme Court, has that been on a writ of Habeas Corpus?

Mr. McLeod: No, it is an application under section 457(5) of the Criminal Code. It is a simple review application to the Supreme Court.

Mr. Lawlor: The reason on the face would be that he had at a previous time gone to Great Britain and the possibility that he would skip the jurisdiction; that would appear to be the case, would it?

Mr. McLeod: I have the transcripts of the two original show-cause hearings, which I certainly will be pleased to show to you if that would be of assistance. As you are aware, show-cause hearings are ordinarily done with an order of non-publication as to the evidence taken and there are very careful rules set out in the Criminal Code as to what evidence can be called at that time; but having regard to the fact that there are at the present time five charges still pending before him in the courts, I don't think it is perhaps proper for me to comment on it any further, other than to say that the transcripts are here, they were before the Supreme Court judges, the evidence that he gave at that time as to his explanation as to why he had not shown up in answer to the appearance notice is there in the record to be viewed by you or any other member of the committee who might find it useful.

Mr. Lawlor: It was categorically denied yesterday, by both the Minister of Justice and his deputy, that the reason given with respect to the second trial was that the presiding judge was not satisfactory to the Crown and the other judge did not have time until then. There would be no nefarious juggling of judges—

Mr. McLeod: There is not the slightest indication of that.

Mr. Lawlor: Not the slightest indication. I will have to inform Ann Buttrick to that effect.

Just a comment on this. In situations where fraud and false pretences charges are being laid arising out of a partnership or out of a business transaction, who laid the charges, who gave the information, was it the partner in the business venture?

Mr. McLeod: My information is that it was a sergeant of the York Regional Police who laid the charge.

Mr. Lawlor: But he got his information from the source of a business associate, I would take it.

Mr. McLeod: As you are aware, the Criminal Code provides that it is not just a police officer who can lay a charge. Any citizen can; and in my experience the practice of the police is to review the evidence available to them and if they are satisfied that they have reasonable and probable grounds to believe that a criminal offence has been committed, they lay the charge. If they have doubt about that, they certainly instruct the complainant as to his rights.

Mr. Lawlor: My comment is as follows though; in inter-business relationships or an ongoing contention between business associates of that kind, the court should be particularly scrupulous with respect to the bail proceedings. As was earlier mentioned in the thing, in commercial transactions the court very often, either the justice of the peace will not accept or the court will dismiss a charge having to do with a primarily personal and financial relationship, on the basis that by and large these things are more properly settled in civil dispute and not by using the criminal courts as a collection agency or as a working out of business quarrels within the particular context of that court. This apparently was the context in which this whole thing arose, including these charges. Therefore the judiciary and the Crown attorney's office should be particularly jealous of the rights of an accused in that particular relationship or context. That is my first thing.

Hon. Mr. McMurtry: There would be no question about that.

Mr. Lawlor: Simply because he went to Europe—that could have been circumvented by simply taking his passport.

Hon. Mr. McMurtry: An experienced police officer, certainly in my experience, would be very concerned that the courts or the police departments and the Crown attorney's department are not used as collection agencies; but on the other hand, the mere fact that the charges arose as a result of a business relationship doesn't necessarily throw any light on the fact, because it is that very relationship that produces a great deal of fraudulent activity, and the fact that the person had been a business partner doesn't necessarily indicate that it is any less serious. But I think I have to emphasize the fact that the police officer, as Mr. McLeod has stated, the sergeant who lays the charge, can only do so if he has satisfied himself that

he has reasonable and probable grounds upon which to prefer such a charge, and it is not a matter that should ever be computed lightly, and with that I am in total agreement.

Mr. Lawlor: I would agree with you this far; if the general public—third parties—are affected by the inter-relationship, I am not saying the charges shouldn't be laid in this particular context, I am simply saying that bail should be scrutinized very carefully; that is, a pro-bail attitude should prevail in this particular context, and to a greater degree than what it would if innocent members of the public were involved, with nothing to do at all. This kind of inter-fraud innuendo, or statement made by one business associate to another, is very prevalent and it is quite intricate. The books have to be gone over and so on; and did you take money out of the petty cash, and all this drivelling that can go on interminably in terms of great bitterness.

I am not saying the charges should not be laid, I am simply saying it is a blot on your escutcheon that this young man should sit around in jail for six months over a business quarrel; that is what it comes to. The charges thus far have been dismissed, which goes some distance to compounding this. If a conviction is made, the length of time spent in jail would, I trust, be taken into consideration in the sentencing; but an individual in this context, it seems to me, is being unduly and severely punished.

Mr. McLeod: I wonder if I could just add, I perhaps should make it a little clearer: The one charge that arose out of the business transaction, that is the Toronto charge, was the charge in respect of which he was released on bail or ordered to be released on bail. The remaining six charges, the false pretences charges and so on in Halton, relate to obtaining a watch from a jewellery store, obtaining an Air Canada ticket for \$750, obtaining \$800 worth of travellers cheques, obtaining a camera from another store; and really were totally unrelated to the business transaction. It was in respect to those charges that he was ordered to be detained in custody.

Mr. Lawlor: You are slowing me up, I tell you that.

Mr. Roy: I take it these charges were brought on bad cheques?

Mr. McLeod: That is the allegation.

Mr. Roy: Yes, but I mean over what period of time did that take place, all these charges?

Mr. McLeod: The first charge, sir, on May 3, 1975; and the last charge of that type was on July 26, 1975.

Mr. Roy: I appreciate the time difference in relation to the date of the charges.

Mr. McLeod: No, I am sorry, that is the date of the offences.

Mr. Roy: The date of the offence, that is what I wanted to know. I just wanted to comment on that. I take it that he has been acquitted now on the charges relating to the business, and I take it as well that the main witness in that case was probably his business partner.

Mr. McLeod: That is my information, yes.

Mr. Roy: That is the area. I know the police are careful, I mentioned it here the other day. You know, you have got to be very careful when you are involving business transactions, and I appreciate the fact that the Attorney General has said that the police make a judgement on reasonable and probable grounds. The police have to go out and swear that information, sign that information—I appreciate that—but when their major evidence is based on, in fact, the evidence of a partner who feels that he has been connived or something, there is some colouring going on there. I am concerned about this case, just listening to the explanation and reading the letter, that you get a series of recurrences with bad cheques and one particular business transaction. It appears that a charge is laid, and he goes out and writes a bad cheque and so another charge appears. In view of the first charge relating to a business transaction, all these occurrences appear to be the type of charges that are not a big threat to the community; and the fact of a threat to the community is the main reason for keeping someone inside, denying bail. I am concerned about that aspect.

Mrs. Campbell: Could I come in on this, since you are dealing with it? The statement contained here is, and I believe I'm correct in that it was the statement made to us earlier: "Yet when we bailed him out on the major fraud charge by his partner, he was re-arrested by another local jurisdiction on minor bounced-cheque charges arising from the same differences with the partner, and which had been presented at the original bail hearing where bail was offered." Do you have any comment on that statement?

Mr. McLeod: With respect to the connection between the false pretence charges—

Mrs. Campbell: And that the evidence on them was presented at the first bail hearing.

Mr. McLeod: First of all, with respect to the question of whether there was any connection, it is my understanding there is no connection.

Secondly, with respect to them being presented, your statement is quite accurate, because the Crown counsel in conducting the show-cause hearing on January 30, 1976, made the presiding justice of the peace aware of the fact that there were outstanding charges in another jurisdiction so that he would be aware of the entire facts, but did not, and of course could not because there was no jurisdiction in that justice of the peace, seek to try and deal with those charges.

In that type of situation, the usual procedure that would then follow would be that counsel for the accused would attempt to make arrangements to have the other charges from the other jurisdiction brought to one common jurisdiction and dealt with, or at least dealt with as quickly as possible. But under the Criminal Code, the Halton judicial authorities were, of course, precluded from entering into any show-cause hearing as long as he was still detained pursuant to the first order.

I think the Crown quite fairly put the entire information before the justice of the peace on the first hearing.

Mrs. Campbell: All right, in that event, what do you say as to the fact that here is a case of a transaction between two persons, two partners in this case? I have another one, which I will present to you, which is not on this list, which is a matter of a claim by more than one hotel in Toronto.

I put the question to the Attorney General yesterday, and I put it again today. In the eyes of the public, particularly in the eyes of the Canadian Friends, who are in the two jails on a regular basis—one of whom is a lawyer, so that I would have thought he would not be innocently, as I think, misleading anybody in his statement—they are of the opinion that if it is a property transaction, it seems to be much more difficult to obtain bail than if it is a crime which affects a child in the community, something where one is released and able to perpetrate further offences. I think it's this, apart from the fact of the time in jail and what the time would be if he had been found guilty on the charges. Do you understand what I'm saying?

Hon. Mr. McMurtry: I'll answer your first statement, Mrs. Campbell, and then I'll ask

Mr. McLeod, who is rather experienced in these matters—I'll welcome his contribution. But as to your first statement that it is more difficult to obtain bail on property matters as opposed to some other crime where the accused released back to the community would pose a greater threat, that statement is just absolute nonsense.

I must admit that for them to make it would make me seriously question their objectivity. I have to say that in clear, unequivocal terms. Because my experience over the years, not from my personal experience, but I just don't accept the statement; and particularly in view of that statement I find it difficult to accept any suggestion that this is a totally objective group.

[4:00]

Mrs. Campbell: I don't think for a moment that anyone who is out to try to reform a system is totally objective. I think they are very anxious to see changes made. I don't suggest that—

Hon. Mr. McMurtry: I have already characterized your statement in that one area. Mr. McLeod, perhaps you could assist us further?

Mr. McLeod: I don't think I can add anything to what you have already said, sir.

Mrs. Campbell: You haven't anything on the other cases here? You haven't had the opportunity to look into them?

Hon. Mr. McMurtry: I don't know if we have enough information. It isn't that we haven't had the opportunity.

Mr. McLeod: The letter, insofar as it refers to Mr. Dunning's case; and to a 16-year-old whose name is not given; and thirdly to a Douglas Chapman—I regret that the information in the letter wasn't sufficient for us to be able to trace the history of the cases; at least since yesterday anyway.

Mrs. Campbell: May I ask if, whenever you get it, we might be provided with the information?

Mr. McLeod: We certainly will, but I think we are going to need more information—

Mrs. Campbell: In some of them, obviously.

Hon. Mr. McMurtry: In all of them.

Mrs. Campbell: In all of them?

Mr. McLeod: We don't know in which jurisdiction any of the three cases lie. We

don't know when. It would certainly be helpful to know whether they are Toronto cases or matters of that nature to assist us in tracing them.

Mr. Lawlor: Between Margaret and I, we will get that information.

Mrs. Campbell: We certainly shall.

Hon. Mr. McMurtry: I've been waiting for it for some weeks, so it would be of great assistance. I would like to make a further observation, too, in respect to these matters of bail. I am not suggesting that there aren't individuals who have been treated unfairly and it would be silly for me to make any—

Mrs. Campbell: I would think it would.

Hon. Mr. McMurtry: After all, the way this human system works it isn't possible to avoid human frailty. To put this in the right context, I have heard many complaints from police officers, for example—conscientious police officers—whose complaint is the relative ease with which people obtain release, whom they have honestly believed to be a serious threat to the community. That is their view and I am not suggesting for one moment that their view should prevail; but law enforcement officers, to whom we do delegate a lot of responsibility, generally feel that we have gone too great a distance in the other direction and they will argue very persuasively on occasion that this is not in the public interest. I think we have to keep some perspective in these things. It is not easy, I recognize.

Mrs. Campbell: Is it not a fact that when the police are uptight about this sort of release, it is usually in a case in which they have reason to believe that the accused has committed an offence which seriously endangers the lives of people in the community? That is the only complaint; I have never heard them talk about their fears where two partners have a falling out. As a matter of fact, they usually don't want to get too involved in that.

Hon. Mr. McMurtry: I don't think we are talking about that.

Mrs. Campbell: I am. That's the point.

Hon. Mr. McMurtry: It has already been pointed out by Mr. McLeod there was no difficulty in Mr. Martin obtaining bail in respect to that particular transaction. As I say, I am not talking about Mr. Martin when I make this general statement.

Mrs. Campbell: No, of course not.

Hon. Mr. McMurtry: There are people who are involved in activities which involve frauds of one kind or another whereby the view of the law enforcement agencies is that the courts are far too lenient with these people in granting bail.

Mrs. Campbell: I imagine.

Hon. Mr. McMurtry: As I say, that's another point of view which I hear with a great deal of frequency—

Mrs. Campbell: So do I.

Hon. Mr. McMurtry:—complaining that our Crown attorneys aren't tough enough in resisting or in presenting the case for the community on these bail applications.

Mr. Lawlor: Just on that point, if I may, I understand the police problem. Throughout North America, the animus of the police against the criminal justice system with respect to evidentiary rules and with respect to the presumption of innocence is a constant running sore. It's a canker, particularly for certain police chiefs, forever. They are the ones who are the chief attackers of Legal Aid—not all of them and not the bulk of them, but a sufficiently vocal number—and they get through to you with fair ease. I am simply saying to you, watch what they say on this particular count very closely. Their frustration in knowing somebody is guilty—at least they believe he is guilty—and seeing him go scot-free is understandable. But, on the other hand, we've set up a whole system for a thousand years in order to preserve innocence. What the police have to say in these matters should be weighed but weighed carefully.

Mr. Roy: On that point, in these situations the approach taken by the Crown is the most important, because the judges by and large in most of these situations will turn to the Crown and say, "Do you want to show cause?" I would think in 99 per cent of the cases, it's the Crown attorney who decides and makes that kind of value judgement. It has been my experience, from observing the Crowns in the Ottawa area in any event, that by and large they are pretty fair in making that assessment. But I want to point out that when a case has a bit more notoriety, that is when you see the importance of keeping that balance.

I just want to bring to your attention a situation which was of concern to the Ottawa community and which really gave me an example of a case the Crown and the police sort of lost their objectivity. It was remarked

to me by senior Ottawa police inspector at that time—and it's a case with which I think Mr. McLeod is familiar. You'll recall the Vanier police chief was charged, along with a local businessman—and I appreciate that the case is under appeal now, I believe. Remember the charges were quashed before the assizes? Is that case under appeal presently?

Mr. McLeod: No.

Mr. Roy: It is not under appeal?

Mr. McLeod: That decision of Mr. Justice Goodman is not under appeal, but the matter is still before the courts. I think John Greenwood has more details on it than I do.

Mr. Roy: I was in court the day they were first arraigned and to me that was a typical example where there was somewhat of an abuse of the process. Here was the Vanier police chief, who has been around there for 30 some years—he is not going any place—and a local businessman, who was born and raised in Ottawa. I think they were brought up on a Wednesday and the Crown asked for a show-cause for Friday. To me, that was a typical example of two individuals who had to spend time in custody with no reason. They weren't going anywhere. There was no evidence they were going anywhere.

It appeared to me the only reason that was done was that the police apparently wanted to keep them inside so they could hunt up some evidence or make sure that some evidence that was lying around was not destroyed. I take it that was their suggestion. I thought that was a typical example of where that happens in cases of certain amount of notoriety.

I think what gets the police excited sometimes, Mr. Attorney General, is that when—maybe I'm using too much slang here—what I call the local hoods come up on an armed robbery charge or something else, they are the ones who are released on a show-cause. But these two characters, no matter how improper their conduct was from a community point of view, were kept inside for no valid reason under The Bail Act, as far as I am concerned, for a couple of days or three days while the Crown showed cause. I thought that was unfair.

Hon. Mr. McMurtry: It may have been unfair. I don't know enough about the details of the case, but I think there is one other consideration that might come into play on occasion. I am not suggesting it should in this case, but one of the principal criticisms that is made of the justice system is the

perception from time to time that decisions are made behind closed doors—whether it involves the Crown attorney, defence counsel, judges—particularly in the area of plea negotiations.

In a case that has attracted wide public interest, sometimes it is important in order to maintain the confidence of the public in the system that there be some public show-cause hearing. Then the public won't get the impression that a person is getting special treatment because of his position. That's the other side of the coin, and I don't think you should lose sight of that. Whether that was appropriate in this case or not I am not in a position to judge.

Of course, where a person is in a position of some public trust, with obvious connections at a high level, there is always a danger, I agree, that those responsible—be they police officers or Crown attorneys—may bend over a little bit too far to satisfy the public that this person isn't getting any special treatment. All I can say is, in certain circumstances you can understand why they would do that and why it might be on balance in the public interest to do it, even though it might appear a little bit harsh as far as the particular accused is concerned.

Mr. Roy: I have difficulty following you. I don't want to unduly delay this committee, but the fact remains that we broke the norm there. We over-compensated the other way, with really no reason. Had it been a crime of violence or some threat to the community, it would have been more justified. But the charge was along the lines of public officials accepting a benefit, that type of charge.

Hon. Mr. McMurtry: Of course you and I may have a difference of opinion, but I can't think of a much more serious offence than when people who are in high places—sensitive areas of public trust—to me that is a helluva lot more serious than almost any other offence that I can think of.

Mr. Roy: But, well—

Hon. Mr. McMurtry: If people believe that individuals, particularly those in sensitive positions of public trust such as police chiefs, are accepting bribes, then I tell you we have got serious problems in maintaining—

Mr. Roy: Yes, well—

Hon. Mr. McMurtry: —confidence in the law enforcement system. So I just—

Mr. Roy: I agree with you. I am not saying it is not a serious offence. But the criteria for bail are simply this: Probability that he

will show up for his trial or he will commit an offence while he is out on bail, right? These, as I understand it, are the two criteria. These two criteria, in my opinion, were not being jeopardized at all. I think it is more serious when the fellow is released on bail following a rape charge, or where there is a crime of violence and there are witnesses out there; or robbery or things of that nature.

Hon. Mr. McMurtry: On this question of special treatment, I would remind you, Mr. Roy, that there is a certain celebrated president of a professional hockey league who appeared in court in Ottawa and because of the public interest and the swarm of news-people, the police there didn't detain him very long. As a matter of fact I gather they were accused of helping him out of the back door. One of your colleagues in the Legislature made a great deal of the fact that the public might have believed this individual was getting some sort of special treatment because of his position. You know, the balancing act—

Mr. Roy: That's why—

Hon. Mr. McMurtry: —is sometimes a little difficult.

Mr. Roy: That's exactly why I raise the issue. The police and the Crown have got to keep that happy medium. But in that case there may well have been some suggestion that, for instance, a judge said are you okay, and the whole bit. In this other case, they over-reacted in my opinion and said, I think we should have show-cause, he should stay inside with no—

Hon. Mr. McMurtry: How would you know that?

Mr. Roy: Pardon?

Hon. Mr. McMurtry: For example, the criteria surely that must apply to all of these hearings is the public interest? That surely is implicit, right?

[4:15]

I don't know the facts of the Vanier case, but supposing you're on the Crown attorney's staff and you had reason to believe that an individual upon his release would be in a position to go around and hide evidence or destroy evidence. Even though you felt there was no problem about him absconding or leaving the jurisdiction, I would think in those circumstances you would say "All right, the public interest must be given top priority here."

Even if it means setting up a show-cause, and even though it means this person remains in custody for 24 or 48 hours, if the public interest is compelling enough—such as in the illustration you touched on—I have to say that in the exercise of your judgement you might very well say, "The public interest requires that this man be retained in custody for a short period of time." That's a judgement call which is awfully difficult to make, but it has to be made on some of these cases.

Mr. Roy: It seems to me when the Crown takes it upon itself to do that a show-cause hearing should be held as early as possible and put forward to the court with certain evidence. The thing I get concerned about is that on some suspicion or on some value judgement made by somebody, which actually is a questionable basis, people have to spend time in custody—because some Crown attorney had decided that maybe that might happen when an investigation has been going on for months and the police have search warrants.

Hon. Mr. McMurtry: But you don't know whether that is so or not. It has been pointed out to me that in section 457 of the Criminal Code a secondary ground which must be considered is whether or not there might interference with the administration of justice. I agree with you that if a decision is made to postpone a show-cause hearing for a couple of days for capricious reasons, that is an abuse of the process.

Mr. Roy: That's why I raise it. I have suspicions that that's what took place here.

Hon. Mr. McMurtry: On the other hand you may be maligning a dedicated public servant who may have had good cause.

Mr. Roy: I think I try to be relatively fair in these things and give them their due credit. I am just saying a fellow sitting there looking at this whole process—

On this particular issue, if Mr. Lawlor has finished, I have one other matter to raise on the question of Crown attorneys?

Could you help me, Mr. Attorney General? Charges were laid, I understand, against a hockey player here, Williams—

Hon. Mr. McMurtry: I read about it.

Mr. Roy: Did you read about it? It was said at that time, and I heard it on CBC as well, that they were laid subsequent to your personal intervention.

Hon. Mr. McMurtry: Which was totally inaccurate.

Mr. Roy: That's what I wanted to—

Hon. Mr. McMurtry: I issued a release this morning making it quite clear that was a very erroneous report. I had no personal involvement whatsoever in relation to that and I was advised only the day before that there was even an investigation. I was advised that a charge would be laid but I was not involved at all in the decision or in any recommendation. I regretted that news report very much because I don't intervene in that perspective. I don't believe that it's my role.

Mr. Roy: I'm glad we cleared it up. This sounds as though it was trumped up between you and me because I recall the other day I said that I felt once a policy had been set by you it was up to your local officials to make whatever necessary decision—

Hon. Mr. McMurtry: Absolutely.

Mr. Roy: —because the Attorney General shouldn't intervene every time there is an assault in the city of Toronto.

Mrs. Campbell: He'd be kept busy.

Mr. Roy: The report went right across the province that it was due to your personal intervention that such a charge was laid.

Hon. Mr. McMurtry: The report was totally in error. I agree with you that it was unfortunate and, quite frankly, I found it personally embarrassing. I agree with you that once policies are established, I am not going to intervene.

Mr. Roy: Okay. There's one final little matter that I want to bring to your attention. You recall the situation in Ottawa where the Crown started an action against Jean Marchand in relation to libel and slander?

Hon. Mr. McMurtry: I recall that.

Mr. Roy: You recall that situation. I didn't make any comment at the time about the situation, there was a dispute going back and forth. I kept reading reports in the paper about Marchand or his lawyer saying something, and then about the Crown attorney in Ottawa, who is by all indications a capable official. Then you intervened and defended your Crown attorney.

Hon. Mr. McMurtry: That's right.

Mr. Roy: Which was totally proper; I thought that was quite proper, that's your role.

But I thought it improper that he as a public servant, would get into a shouting

match, publicly, with a politician. That bothered me a little.

If there was any comment to make, he, as your official, should have left it up to you. Obviously you're capable of doing that. It's a minor thing, but in my opinion Crown attorneys shouldn't get involved in shouting matches with politicians or public officials. They are servants of the Crown.

You're the spokesman for that ministry. It's up to you to correct any situation, not the local Crown attorney.

Hon. Mr. McMurtry: I agree it's not desirable, but I think if you were slandered personally in relation to the conduct of your professional office, you would find it, as I would find it, very difficult not to respond. I think the fact—

Mr. Roy: I would come and see Roy McMurtry on the theory he gets more coverage than I do, he can best correct the situation.

Hon. Mr. McMurtry: I agree with you, it's not desirable. But in those circumstances, considering the degree of provocation, it was understandable.

Mr. Roy: That's all.

Madam Acting Chairman: On the list I have been handed it's Mr. Sargent, and then I have Mr. Lawlor.

Mr. Sargent: Are we talking Crown law office or—

Madam Acting Chairman: We are still on item 1, Crown law office.

Mrs. Campbell: May I suggest, Mr. Chairman, that yesterday in dealing with this section we did tend to go beyond item 1. Is that not so, Mr. Lawlor?

Mr. Lawlor: You mean while I was away you were bad boys and girls?

Mrs. Campbell: We seemed to deal with the whole item, rather than just the first one.

Mr. Sargent: It would suit me much better, because I have only a few remarks to make. I guess I am about the only guy in eight million people in Ontario who has had a bellyful of the Attorney General's interference in hockey, and your decision that you are going to be the director of the NHL and everything that goes on in the sport world in Ontario. When I saw that news story today I saw red. I think it's time that—

Hon. Mr. McMurtry: Did you hear my response?

Mr. Sargent: Oh I heard your response, but in the main I think you have enough to do in your office rather than getting into hockey so much.

Hon. Mr. McMurtry: You know I am not going to sit here quietly and listen to nonsense.

Mr. Sargent: Just a moment, I have the floor.

Hon. Mr. McMurtry: Well, I won't—

Mr. Sargent: I have the floor for a moment. Now you listen to me for a second.

Hon. Mr. McMurtry: Well, I won't listen.

Mr. Sargent: You misunderstand. In this province we have a lot of people who aren't lawyers, and the laws should be written so that the common person can understand something that is going on in the law process. You think because you are the Attorney General that you have the right to set the norms, or whatever should be, in your particular way to get headlines.

I like you personally, but your idea of taking over the area of sport just burns me up, because I have been involved in sport all my life. Hockey will look after itself without Roy McMurtry. Having got that off my chest—

Hon. Mr. McMurtry: Could I respond to that?

Mr. Sargent: Okay, go ahead.

Hon. Mr. McMurtry: Our policy was laid down because there seemed to be some confusion in people's minds that the law would be enforced everywhere in the community—whether it's in the opera theatre or in the hockey rinks or anywhere else.

Mr. Sargent: You haven't done much in opera. What have you done in opera?

Hon. Mr. McMurtry: Let me just finish.

Mr. Peterson: Anybody been hit by a hockey stick in an opera lately?

Hon. Mr. McMurtry: If you support the view that a criminal offence occurring during a hockey game should not be considered as such, then I think you and I have a very basic disagreement. Certainly the example that would be created by me supporting any such absurd position, in my view, would be to give people—particularly the young people of the province—a very strange perception of what the law is all about.

Mr. Sargent: You look like motherhood in this thing, you look beautiful.

Hon. Mr. McMurtry: I don't know that I do.

Mr. Sargent: But it gives me a pain in the ass what is going on, I'll tell you.

Hon. Mr. McMurtry: I don't know that I do. What occurs, particularly during a professional hockey game on television—you yourself know this as a long-time athlete—has an enormous influence on the young people across this province. I have talked to dozens and dozens of coaches who have told me that every time they see a brawl on television in a hockey game they almost know that in the next game there is going to be some attempt to imitate what occurred.

I don't think that those of us in the Legislature, whether we are lawyers or not, should be happy with that situation. I'm particularly concerned, having youngsters myself involved in hockey, and some of them can handle themselves without any help from me I am sure. I have watched the amateur hockey scene, particularly at the junior level, for some time. But in the last several years I was becoming very alarmed, as were a number of thoughtful people in amateur hockey, about the number of young people that were dropping out, or were not participating because of what was happening. This was because of the enormous influence that professional hockey players have.

And you know, Mr. Sargent—I guess we could do this over drinks some time—but you would be amazed at the number of professional hockey players, both present and past, who have said to me that they are in total support of the policy that was laid down.

So I make no apologies for it whatsoever. I agree with you that the sport, whether it is professional or amateur, is quite capable of policing itself.

Mr. Sargent: You had better get your skates on and go into the locker rooms around the country and hear what they are talking about.

Hon. Mr. McMurtry: I hear it very frequently.

Mr. Sargent: We will leave that. There must be about 2,000 games of organized hockey a week—NHL, WHA, all the different leagues—and what you have done is blown it entirely out of all proportion. You have given hockey a bad name—and to your advantage, and it is good stuff.

Hon. Mr. McMurtry: I don't think I have given hockey a bad name at all.

Mr. Sargent: That is my opinion.

Hon. Mr. McMurtry: I continually repeat that it is obviously one of the world's great games, and we all have an interest in seeing as many young people participate in it as much as possible without—

Mrs. Campbell: Only boys.

Hon. Mr. McMurtry: I have two daughters who play hockey.

Mrs. Campbell: Good. I'd like to find out where they play.

Mr. Stong: Mr. Chairman, how does the Attorney General reconcile the action against hockey players with the lack of action against professional boxers? The object of that game—or sport, whatever you want to call it—is to do your opponent damage and injury and thereby win it?

Hon. Mr. McMurtry: I would have thought at some occasion in your career you would have read the Criminal Code and the assault provisions, and if you had the answer would have been provided. It is obviously related to the issue of consent. One only has to look at the definition of assault in the Criminal Code to be aware of it.

Mr. Stong: I don't believe anyone can consent to be damaged for life. I think there has got to be some application of the law to that sport as well—if you call it a sport.

Mr. Peterson: With respect, I used to box and I never once consented to anyone else hitting me.

Mr. Sargent: Mr. Chairman, I will be very brief. I had occasion to write to you, Mr. Attorney General, regarding a Crown attorney in our city. I bought a transcript of a trial. Regardless of your interpretation of what the Crown attorney told you—I would like to ask: What do you pay a Crown attorney in Owen Sound?

[4:30]

Hon. Mr. McMurtry: I wrote you—

Mr. Sargent: I want to find the background.

Hon. Mr. McMurtry: You received a reply from me, as I recall—

Mr. Sargent: Yes, I got your letter. What do you pay these men?

Hon. Mr. McMurtry: I can't tell you the precise salary; we can tell you that in a

moment. Mr. McLoughlin perhaps can assist you as to the range.

Mr. McLoughlin: The maximum range is about \$41,000. Is this Mr. Rae you're inquiring about?

Mr. Sargent: Yes.

Mr. Callaghan: We could get you the precise salary if you want.

Mr. Sargent: But you're paying him enough money, are you?

Mr. Callaghan: He's still on the job.

Mr. Sargent: A lot of people don't want the job. I was wondering if it was because we've got a second rater there; I don't know.

Hon. Mr. McMurtry: I can tell you this, Mr. Sargent: We're having difficulty keeping good Crown law officers in the system with respect to the salaries we pay. We don't pay a lot of them enough.

Mr. Sargent: You mean that's the answer? The only thing is this—I don't give a damn what kind of a guy gets into the box, when he gets into that court, he's guilty. I mean, he's under the gun; I shouldn't say he's guilty. A man is under great strain when he goes there, charged with breaking the law. For the Crown to call him a liar—it's in the transcript. He says, "You're a liar." The man got up to move and he said, "You sit down there." He told the judge, "This thing here."

That is the kind of stuff I won't allow in Grey-Bruce. I've got rid of other Crown attorneys up there because they tried to push our people around. The police and I are on good terms.

Hon. Mr. McMurtry: Just for a point of clarification, Mr. Sargent, have we got a copy of that transcript?

Mr. Sargent: I have a copy.

Hon. Mr. McMurtry: I don't think you sent me a copy of the transcript, did you?

Mr. Sargent: I thought Rae had sent you a copy.

Mrs. Campbell: He said you could buy your own, I guess.

Hon. Mr. McMurtry: When I look at the budget, I'm not sure. I don't recall—I agree with you that a Crown attorney has no right to call anybody in the courtroom a liar.

Mr. Sargent: He called him a liar. It's for the judge to interpret that, not the Crown—as I understand the process.

Hon. Mr. McMurtry: Can I interject a note of humour here? It reminds me of a story of a very celebrated Crown attorney—an assistant Crown attorney you'd know, Mrs. Campbell; he was around for some time in the profession and is now dead. He got himself into a lot of trouble a few years ago by calling a defence witness a dirty rat. Needless to say, everybody was very upset, understandably so. The court was adjourned for a couple of weeks. He received a good deal of criticism in the press and a stern lecture from the Attorney General of the day; and admonitions from everybody in the community.

The trial resumed two or three weeks later to a packed courtroom. cross-examination wasn't completed. The Crown counsel was asked to continue his cross-examination of the man he'd called a dirty rat three weeks earlier. He said he had only one question. "Your worship"—as they were called in those days—"Your worship, I only have one question." He asked the witness: "Witness, do you like cheese?"

I don't suggest that was the proper response at all, according to our legal annals, but I thought in this context—

Mr. Sargent: There may be a parallel but in your letter to me you insinuated, or at least you inferred, that there was background information that the guy might not have been telling the truth but the evidence was not there. This man Rae is known for the way he treats people in court and sure as hell I won't allow that to go on up there.

If you want to get in bed with him, all right, but you're going to hear from me quite often. I will send you the—

Hon. Mr. McMurtry: We'll look into this and if we can't get a transcript, perhaps you can lend us yours—

Mr. Sargent: I'll let you have mine.

Hon. Mr. McMurtry: We'll certainly look into it.

Mr. Sargent: Okay.

Mr. Vice-Chairman: Mr. Lawlor?

Mr. Lawlor: I have several points arising out of this. Are you still utilizing part-time Crowns throughout the province?

Hon. Mr. McMurtry: Yes, we are.

Mr. Lawlor: Are there as many part-time Crowns? The part-time Crowns in 1974 were in Dufferin, in Haldimand, in Oxford, in Prescott and Russell—

Mr. Callaghan: Do you mean full-time part-time Crowns? We use part-time Crowns in every county, because we can't staff for peak loads. If you mean part-time county Crowns, we have three of them in the province who carry on their own practice at the same time.

Mr. Lawlor: That's what I mean, having private practices and at the same time acting as part-time Crowns.

Mr. Callaghan: Actually, Mr. Lawlor, they're appointed Crown for the particular county in which they operate, and the three of them are in Dufferin, Haldimand and Prescott-Russell.

Mr. Lawlor: Is that because there's so little criminal activity there or because there's too much?

Mr. Callaghan: In these cases—and we've been reviewing this particular situation— it's because it has been felt that it was more economical to provide Crown attorney services on this basis for those counties. They don't really have the case load of other counties.

Mr. Lawlor: You do, nevertheless—or do you?—appoint members from the private bar, known and capable criminal lawyers basically, as special counsel in cases?

Mr. Callaghan: No, not as special counsel. We have a list for every county of part-time assistant Crown attorneys who come in to help the Crown when the load is too heavy for him to handle himself. For instance, in many counties there's just one Crown attorney; and when the assizes are in the county the provincial court must continue, so we will get a part-time assistant Crown, who will be a member of the local bar, to come in and we'll pay him a per diem of \$75 a day to discharge the Crown's functions in those courts. We do that all across the province.

Mr. Lawlor: I'm anticipating a bit the next vote, but in a case where assault charges are laid against police officers, do people from your full-time staff prosecute the case in that particular instance?

Mr. Callaghan: Usually when there's an assault allegation made against a police officer in county A, we will arrange to have the Crown attorney from the adjoining county or another county, or somebody from outside the county, come in and prosecute that case. That's usually done. In some cases, it's not done. We leave it to the discretion of the

Crown attorney in the county where the incident took place, because we've found in some of the metropolitan areas, where you have police forces of 5,000 or 6,000, that they don't really know the police officers that well. It has turned into a tactic that's being used in many cases to create chaos in the system. People who have experience with the law will lay charges against police officers, hoping to delay the eventual trial for the offence for which they were brought before the courts.

Basically, we bring the man in from outside, but it's at the discretion of the Crown attorney of the county to decide if it's a case which warrants that.

Mr. Lawlor: Well, we'll come back to laying charges against police officers.

Incidentally, too—perhaps not during these estimates, because we have to get them over with some time—on some future occasion we just might have to carve out a little time to discuss the role of sports and your department in its wider aspects. We haven't really been able to do that or haven't saw fit to do that in these estimates, except a few remarks at the beginning. But it is a subject to be explored.

Mr. Callaghan: Do you mean outdoor sports?

Mr. Lawlor: Yes, not just hockey. I'm thinking of football, for instance. When I see the gladiators on the gridiron every Saturday spread all over one another and being carried off, they may say there's consent there—but I don't want to get into it today.

In the Law Reform Commission's remarks on Crown attorneys, recommendation 73 says: "Provincial judges, not Crown attorneys, should be charged with responsibility to advise justices of the peace with respect to the performance of their judicial duties." What do you say about that?

Mr. Callaghan: I think we've been developing an educational programme for justices of the peace under the direction of the chief judge and the amendments to The Justices of the Peace Act two years ago provided for the establishment of a justice of the peace counsel. By and large now, the JPs are receiving their instructions from the chief justice or the senior judge but the Crown attorneys still participate in it. We run seminars for them and the Crown attorneys go to those seminars under the direction of the chief judge and give lectures to the JPs. To that extent they are still

participating in it but it is under the control of the chief judge of the court.

Mr. Lawlor: I want to put a spoke in the wheel. I think the Crown attorneys should have not just conversations which they must have but very considerable supervisory powers over the justices of the peace.

Mr. Callaghan: Our policy, and the minister will speak to this, is that the JPs exercise a judicial function or quasi-judicial function and they should be responsible to the judicial officer for the exercise of that function. The Crown attorney under The Justices of the Peace Act can still advise as to whether or not a process is at issue when information is sworn out. He does that as Crown counsel; he doesn't do that as any particular alter ego of the JP. As far as training JPs is concerned and indicating to them the policies of the courts we feel they should get that instruction from the judicial officers.

Mr. Lawlor: I agree with that second point, with respect to that area. Nevertheless, I'll make a blatant statement: One-third, 35 per cent, of the JPs in the province are incompetent and don't know what it's all about.

Mr. Sargent: I'll buy that.

Mr. Lawlor: We'll come back to it again in the next vote. Therefore, the Crown attorneys are there all the time. You are not going to get very much flak, as far as I am concerned, in these estimates about the operation and work of the Crown attorneys of the province. I think they are quite good; they know the law and they know the niceties. These other men don't.

In issuing summonses, especially in their own procedure of office, and in the processes which, more and more, are being delegated to them—first of all, to save costs and secondly because of the overload—the training programme isn't at all commensurate with the increased responsibilities. Therefore, the on the spot man, namely the Crown attorney, should keep his ears and eyes open and watch the situation.

If you have to shoot it up to the chief judge or somebody, he's remote from the scene; the justice of the peace counsel is not in attendance there. He doesn't know. It's the little incidents of everyday life which are the important things in this particular because he is at a grassroots level. That's all I want to say about that for the moment.

I wanted to refer to and get on the record for Hansard and for future generations some of the remarks made by Peter Rickaby in the newsletter about the functions and office of the Crown attorneys. He quotes from the Act and says, "The Crown attorney shall aid in the local administration of justice.

"Let us examine the present set-up to see how well the Toronto office follows that dictum. The present office complement is still largely based on one man, one court mode of operation, with minor exceptions in two suburban courts—Etobicoke and Scarborough—and the county courts. In these exceptions, overload conditions make extra Crown service mandatory."

I'll break for a moment. There's a number of recommendations which we discussed earlier—again I'm not going into them—about decentralization of the courts. Nos. 46, 47, 48 and 49 of the recommendations of the Law Reform Commission have to do with that process of decentralization and you've indicated to us that within the York area, which handles half the cases of the province, you are going to find factory premises, adjust them to the need and decentralize the operation. That is afoot, promised and therefore we'll abide the issue.

He says, "One man, one court—in these exceptions overload conditions make extra Crown service mandatory. With nearly every prosecutor going into court five days a week, 48 weeks a year and spending most of the day in court, he can only deal with what is in court. There is no time to deal with the questions of what should be in court.

"There is no experienced Crown prosecutor available to scrutinize the evidence [this is where the JPs come in] and the resulting charges early in the history of a case to determine if the charges are warranted. The case is submerged in ever-increasing dockets, surfacing months later in a preliminary inquiry or trial with the Crown relying almost entirely on the police to have done the right thing at the beginning.

"In such circumstances, the role of the Crown counsel is merely that of an expeditor, part of a machine for prosecution. Up to the time of committal for trial the only person who has made a decision is the arresting officer.

"The assistant Crown attorney at the provincial court spends his working life shuffling hundreds of cases from docket to docket waiting for a slot to appear when a case may be tried.

[4:45]

"The most important of his talents and powers, the exercise of Crown discretion, is excluded from the process. Being unable to screen he is unable to prevent the system from breaking down from the bulk of the chaff.

"The results of enforced postponement of discretion are reflected at the county court level. Whereas we have seen that although the number of actual jury trials have been slowly declining over the past few years, the rate of committal for trial and the number of trials continues to grow, resulting in a similar assembly-line process of prosecution in an attempt to keep up with the flow. The fact that almost 75 per cent of these cases result in pleas of guilty suggests strongly that Crown decisions are being made at the end of the process and not at the beginning.

"Assignment of cases to particular assistants at the county court level is usually a last-minute affair, because the weekly lists can only be determined on the Thursday or Friday before. A typical case here will have passed through the hands of at least four or five assistant Crowns between arrest and trial. Unscrupulous defence counsel exploit this lack of preparation and decision in the Crown, at the same time shopping for particular county court judges. Respected defence counsel despair of tracking down the Crown in charge."

Now I know this is the whole bundle of wax that we are beginning to enter into, but let us enter into it.

Hon. Mr. McMurtry: This is one of the reasons we are proceeding with decentralization in the judicial county district of York. It is obviously very important to alleviate the situation as referred to by Mr. Rickaby. For example, we have been providing him with additional Crowns so he has already been able to set up a system whereby Crown attorneys are available that are not in court to engage in pre-trial discussions with defence counsel in order to agree on certain facts and thereby shorten the length of the trial. In cases where it would appear that the charge should not have been laid, I suppose it would give the Crowns in those circumstances the opportunity to see that it is withdrawn. And that process is going on now in Metro Toronto.

The difficulty with the process is one of educating the defence bar too. Mr. Rickaby has reported to me that his experience has been that experienced defence counsel are making good use of it, but inexperienced defence counsel are not. This is simply be-

cause they don't have the confidence that comes from sitting down and finding out what it is all about. But we are working, I think fairly hard, within our available resources to remedy the situation as outlined.

I don't know, Mr. Greenwood, whether you would like to add anything to what I have just said? You mean you weren't listening?

Mr. Lawlor: He has heard it before.

Hon. Mr. McMurtry: I think the points that are made by Mr. Rickaby are valid ones, but there have been some efforts made already.

Mr. Lawlor: By the way, I think Mr. Rickaby should be given a good deal of credit.

Mr. Greenwood: I have nothing to add, Mr. McMurtry.

Mr. Lawlor: On one point here: We know the pre-trial conference concept is being explored. It is actually in operation; but it is not fixed and all the procedures and so on have not been accepted throughout the province as yet.

Hon. Mr. McMurtry: There obviously are areas in which there are similar problems. But most of the problems Mr. Rickaby mentions are largely peculiar to Metropolitan Toronto, and as you pointed out the judicial district of York handles about half the criminal cases. In many other areas the Crown attorneys are able to sort these matters out at an early stage. There is quite a close working relationship in many areas between the Crown attorney's office and the local defence counsels who are able to get together more easily than they are in Toronto because of the size of the community.

Mr. Lawlor: Just take my area of Etobicoke. At the present time, is there a Crown allocated to screen and a Crown to negotiate in a pre-trial discovery process??

Mr. Greenwood: Yes, there is. Again, that was initiated by Mr. Rickaby in Etobicoke and, I believe, in North York, and is being looked at with respect to Scarborough. It is just a matter of increasing the staff and having one extra man there to be able to review the cases and get rid of unnecessary or overlapping charges and to deal with the discovery and review of the evidence.

Mr. Lawlor: What about continuity? I know your desire is to have continuity within a single Crown attorney or, at the most, two from the beginning of a case to the

end. The business of it being shuffled around from Crown attorney to Crown attorney is absurd; it is enormously costly and time-consuming.

Mr. Callaghan: We agree with that, but it requires people to handle that. This is what the whole decentralization programme is about. If we can establish our offices in the outside boroughs, then the Crowns in those offices will take the case through from inception. This won't apply in all cases. It will apply in anything of a serious nature. We can't provide a Crown to take care of driving offences or things of that sort, but when you get into the more serious indictable offences then that certainly is what we have in mind.

Mr. Lawlor: I take it then there is one Crown who goes into court but seldom, who operates in a screening context, and the other Crowns are allocated to cases which they will follow through. Is that what it comes to?

Hon. Mr. McMurtry: That is what it is going to come to.

Mr. Callaghan: It will probably work in reverse. As a case comes up, Crown A would have that along with his other cases, but the defence counsel and the police officers who investigate it will know that Crown A will take that case through the preliminary hearing and the trial. So he will be available for contact, he will be available for pre-trial discussion, and he will be operating in the area where the incident took place.

Mr. Lawlor: Have you any idea when this might be in place?

Mr. Callaghan: June 1977.

Mr. Lawlor: Over against the previous year, you have hired 17 new Crowns. My question was as to the increase in complement, but I see in your book that you have 17 more Crowns than the previous year.

Mr. Greenwood: Yes. Some of those positions, I believe, have been filled, Mr. Lawlor. Fourteen of those positions are with respect to the county of York, and I believe five of the positions have now been filled and the balance has not been filled. We are doing it in a very cautious manner, because we want to be able to pick the best possible candidates. We hope to have them all hired by some time prior to the inauguration of the decentralized Crown system.

Mr. Lawlor: When would that be again? June 1977?

Mr. Greenwood: June 1977.

Hon. Mr. McMurtry: Just as a matter of interest, what is the date of that newsletter you are quoting from, Mr. Lawlor?

Mr. Lawlor: It says December 1975 but it was issued in April 1976.

Mr. Greenwood: I wonder if I might comment on that matter, Mr. Lawlor, because I think I should properly allocate the responsibility with respect to decentralization.

It was a ministry policy brought about after some lengthy study by the Attorney General. It was his proposal that the Toronto situation as it existed, with the vertical method of handling cases, was intolerable, and he directed that some investigation be made to determine whether decentralization could take place in a metropolitan area where you do have centralization of services. The matter was raised with the Crown attorney in Toronto, Mr. Rickaby, and quite candidly—and I am not commenting on this by way of criticism; I am just telling you the facts—Mr. Rickaby initially had a negative view with respect to that and thought he could take care of the situation by official staff. This is for May then, to the individual suburban offices which did exist. It was found—he went in company with me—the assistant Crown attorney found the situation quite intolerable when he had a six-week stint in the hinterland with no possibility of handling a substantial trial. It was following that the situation was very strongly endorsed by Mr. Rickaby in his Crown newsletter.

I must say he's extremely supportive of the position today and was at that period of time. I do believe that the concept of decentralization was something determined within ministry rather than those who had experience in that particular area.

Mr. Lawlor: And by the Law Reform Commission.

Mr. Greenwood: Yes. I think they're referring there to the establishment of permanent courts and I think this is an interim measure that has to be done as a matter of the emergency of the situation.

Mr. Lawlor: I don't want to give the ministry too much credit in this issue though.

Finally, just to finish up the Rickaby statement—he's very forthright and in the province we need people of this calibre and openness. He says, "Does that sound as if the Crown counsel in Toronto were aiding in the local administration of justice? Instead of just being

a cog in a prosecution machine, he should be able to handle an important or interesting case from start to finish so that he can take pride in his work and behave as the professional he is.

"He should be able to lecture the 17-year-old shoplifter or the quarrelling neighbours, give them the figurative boot in the pants and send them on their way after an initial court appearance." That's diversion with a vengeance.

Mr. Callaghan: That's not a novel concept. I think in the other 47 counties of the province most Crown attorneys are able to operate that way. Because of the pressures of case loads in Metropolitan area they weren't able to do it as often. They would like to be in the same position as Crown attorneys in other counties find themselves.

Mr. Roy: It is certainly not that way now in Ottawa.

Mr. Callaghan: Ottawa is getting larger, too. As the community grows, some of the personal touch leaves. The hope is that if you operate on a horizontal basis as we're suggesting now, you can at least keep it in the community, and the Crown attorney will be able to deal with cases all the way through. It calls for far more resources and presumably, they'll be available.

Mr. Roy: On that point—is the pre-trial or the pro forma, disclosure procedure, supervised procedure set up in Toronto now?

Mr. Callaghan: It's working. We've introduced it in conjunction with the Supreme Court. The pre-trial procedure for assize cases is just tentative now. We're trying to develop a system which will operate at provincial court and county court level.

Mr. Roy: Sure; because if you're at the Supreme Court level you've already gone through a preliminary hearing, haven't you?

Mr. Callaghan: I didn't catch your question.

Mr. Roy: I'm just making the comment that if it's only operating at the Supreme Court level now you've already gone through a preliminary hearing at that level, haven't you?

Mr. Callaghan: Right.

Mr. Roy: It would be much more helpful if you could have it at the provincial level, and you may well avoid the preliminary hearing.

Mr. Callaghan: We're hoping we can do that. They're operating one at Ottawa at the provincial level with considerable success. We're not sure it's been as successful as the claims are but we're watching it very closely.

Hon Mr. McMurtry: Are they not doing it at provincial court level in Toronto? To some extent?

Mr. Greenwood: No. Well, informally, but we're not doing it on any planned basis.

Hon. Mr. McMurtry: No. The defence bar has been told there would be Crown attorneys available to try to resolve some of these matters, but as you say, it's not a formal structure in place.

Mr. Roy: What is happening in Toronto, I suspect, what is happening, certainly, as the pressure and the volume build up, is it's too much trouble for the defence counsel to chase whichever Crown attorney it is. If there is no Crown attorney assigned to the case he basically uses the preliminary hearing as a form of disclosure. It's at that point that it becomes costly, lengthy and all sorts of unnecessary evidence goes through.

That's the great advantage I see in the pro forma procedure we've set up in Ottawa. You either eliminate completely the preliminary hearing or you shorten it considerably after one of these pro formas.

[5:00]

Mr. Callaghan: On the ratio of Crown to cases dealt with, Ottawa is in a much better position than Toronto because of the volume. There are more cases per Crown in Toronto than there are in Ottawa. And under the present existing complement it would be pretty difficult to implement in Toronto procedures we have in Ottawa unless the complement was considerably extended.

What Mr. Rickaby did last summer was provide, outside, a certain number of courts after notifying the whole profession of Crown attorneys to discuss prior to case, and as the minister indicated, that received somewhat of a lukewarm reception. The defence counsel who were experienced took advantage of it, but they, of course, don't handle the great volume of cases. But it was hoped that something along those lines would develop in a more formal structure.

Mr. Roy: There's one fellow in Ottawa who slows up the average a little bit.

Mr. Stong: There was an affair that went through the defence bar in Toronto when

this pre-trial disclosure was introduced, that eventually the Crown would be indicting directly to the Supreme Court. What is the attitude of the ministry on that?

Hon. Mr. McMurtry: Well, we're not in favour of that. I think Mr. Greenwood made that quite clear at a meeting of the bar a few weeks ago. Because it's still in its initial—really it's just an experimental stage—and I think the defence bar is co-operating fairly well, as I understand it.

Mr. Callaghan: They are at the Supreme Court level now.

Hon. Mr. McMurtry: Yes.

Mr. Callaghan: The proposal for the direct indictment is something that the ministry has viewed with a certain degree of scepticism because you only indict directly under very unusual circumstances, and we did not feel that it should be used as a vehicle for avoiding preliminary hearings or depriving people of the right to a preliminary hearing.

But what we want to develop is some sort of pre-trial procedure which will enable them to shorten that preliminary hearing, or if there is sufficient disclosure and the defence is satisfied then the parties can consent to commence the trial and then proceed.

Mr. Lawlor: What Mr. Stong is talking about is a great fear in the criminal bar which should be specifically mentioned—that something will have to be done about it by way of a rule, or even possibly enactment of a statute somehow, that is, that when you get into pre-trial discovery, you may find, perish the thought, that the Crown will use the threatening device of preferring an indictment, saying that if you don't come to heel, then we'll prefer indictment.

Mr. Callaghan: That fear is unjustified. It's never been done by anyone in this province for five years and it won't be. The Attorney General or myself review all preferred indictments.

Mr. Lawlor: All right, that helps a bit. If this thing is initiated there will have to be a rule that the possible threat of preferring an indictment is ruled out.

Mr. Callaghan: We don't want any rules with references to preferring indictments. The power to prefer indictments rests with the Attorney General. It's historically and traditionally exercised on certain criteria and we don't see—

Mr. Lawlor:—any danger.

Mr. Callaghan: Nobody has been afraid of it so far and we've justified every indictment that we've preferred directly in the last five years. There have been cases where it's so obvious that it had to be done for peculiar reasons—somebody's dying, or they're leaving the jurisdiction, or things of that sort—that nobody has ever questioned it.

Mr. Stong: Just on this point. Being an outsider, I understand it was done fairly recently in the case of one of the Crown attorneys who was charged with breach of trust, and there was a great threat. I only know what went through the defence bar.

Mr. Callaghan: Yes, I'll tell you what happened in that case. That was done without the consent of the minister or myself and that preferral was set aside and they went through a preliminary inquiry.

Mr. Stong: Surely, this is the exact point that Mr. Lawlor is referring to. That where defence counsel gets into these pre-trial negotiations, he doesn't want that threat hanging over his head. We want some assurance that that won't happen.

Mr. Callaghan: I'm sure that the minister would agree that certainly it will be ministry policy that that threat does not hang over anybody's head. As long as The Criminal Code provides a preliminary inquiry for somebody, they are entitled to it, it is a matter of right. A preferred indictment will not be used to thwart them of that right.

Mr. Roy: I'll tell you in my observing of procedure, and having participated in Ottawa I've never felt that that was a threat. I've never felt from the defence bar that that was a threat. In fact, there is such a willingness to co-operate on the part of the defence bar, the Crown and the judges, that an interesting situation is developing in everyone's enthusiasm about the process. A lot of the initiative for that pre-pro forma comes from the defence bar in Ottawa, who are very co-operative, because they reason that if you are going to plead it is a good time to plead, because the judge wants to see the process work and you are probably going to get a pretty good sentence; and the Crown, who wants to see the process work as well, is not going to be too hard. That is the sort of thing that is developing, and I have found the atmosphere very good in the pro forma setup. At least I have not had any feedback from the defence counsel that it was a threat of preferring an indictment directly.

Mr. Callaghan: This concept of threatening a preferred indictment is something that has just come to a head in the past three months, but I think it is fair to say it didn't receive any encouragement whatsoever from the ministry, because that is a power the Attorney General has traditionally exercised very cautiously.

Mr. Lawlor: Mr. Roy has been part of the system and maybe he hasn't cleansed himself as yet. The point is that this pre-trial thing would involve setting up a new institution—or relatively new; it is quite old, really—but this would have to be made abundantly clear, because I have heard from defence bar.

Let me finish the paragraph about the Crown attorney's job, as Mr. Rickaby sees it: "He should be able to advise the young police constable who seeks his help in preparing a dope sheet and find out why a particular police officer failed to show up in court. He should be able to talk to the defence counsel who is seeking information and caution the lawyer who is trying to pull a fast one. Most importantly he should be screening the cases as they come in, weaning out the weak or duplicatory charges and concentrating on the solid criminal acts. That is what is meant by aiding in the administration of justice. I wanted it on the record."

For the moment, I think that is all I have about Crown attorneys.

Mr. Vice-Chairman: Just before you start, Mrs. Campbell, there is a vote at 5:15 p.m., at which time the committee will adjourn.

Mrs. Campbell: I've been waiting for it. Basically, I have two questions. One is, how many women Crown attorneys do we have in the province of Ontario?

Mr. Greenwood: We have just doubled the number, Mrs. Campbell. Two.

Mrs. Campbell: I see. How many in Toronto?

Mr. Greenwood: Two.

Mrs. Campbell: They are both in Toronto?

Mr. Greenwood: Yes.

Mr. Roy: Ask him how many in Ottawa.

Mrs. Campbell: My arithmetic is better than that.

The reason I ask is not the usual one of just trying to elicit the position of the government vis-à-vis women, but rather to draw to the Attorney General's attention a matter

which concerns me. I regret that I could not get permission to elaborate on it, so I can't give you the facts. But the suggestion has been made that on occasion, in cases where rape is alleged, the Crown is wont to scold the person appearing before him to try to get the information laid and to point out that "If you only knew the number of cases where there has been a falling out between a girl and her boyfriend, you wouldn't be here before me today." It is this kind of thing which has been drawn to my attention, and I regret I cannot give you the specific case because I don't have that permission.

If that is going on at all, I would think we should be scrutinizing that situation very carefully, because we all know the problems surrounding this particular charge. While I don't want to say that people should be encouraged to bring these matters whimsically to the court, it does seem that there is an area there where there should at least be some sympathetic kind of understanding of the problems in giving the evidence and having it screened by Crown counsel. That screening, I understand, does go on in Toronto. You say you haven't developed the screening—it is interesting that that should be the one that we seem to have put in place.

Hon. Mr. McMurtry: I would be interested in Mr. Greenwood's response. My information, and it may not be totally accurate, is that the Crown attorney very seldom sees the complainant before a charge is laid. It is usually after the charge is laid.

Mrs. Campbell: In this case it was the reluctance all along the line that was alleged, and finally they were sent to the Crown. That was the allegation that was given to me.

Hon. Mr. McMurtry: This allegation is made in relation, I know, to some police departments. It is sometimes suggested that police officers discourage complainants on occasion but again it has been my experience that it would be a fairly rare occasion where a Crown attorney would come in contact with a complainant prior to the laying of the charge.

Mr. Greenwood: Yes, I agree with the minister, Mrs. Campbell. It would be very rare that you would come in contact with a complainant.

Mrs. Campbell: It puzzled me to hear that this was alleged to have happened.

Mr. Greenwood: Yes, I think there is a tendency by Crown attorneys—and this seems

to be universal—that if it is a doubtful case they certainly will point out to the complainant that she will face a very difficult time in the court.

Mrs. Campbell: It doesn't need to be doubtful for her to face a difficult time in the court.

Mr. Greenwood: Quite right. I think that is pointed out because it seems only fair considering what everyone has seen.

Mr. Lawlor: Just one further question on this: Lay prosecutors. In the previous year you had hired 20 such persons. This is under this vote. You are presently engaging an additional 15, and you set out where they are located. Have you engaged the 15?

Mr. Greenwood: You are reading last year's.

Mr. Lawlor: Yes, I am reading from the previous year.

Mr. Greenwood: There are thirty-five now. And we haven't hired any more.

Mr. Lawlor: Thirty-five now.

Mr. Vice-Chairman: If I can just interject for a moment, is it the pleasure of the committee to resume sitting after the vote? I want to point out that you may have 10 or 15 minutes. You might even have 25 or 30 minutes. Do you want to go and have the vote and then come back and resume sitting until 6 o'clock?

Mr. Lawlor: Yes.

Mr. Roy: We are not sitting tonight?

Mr. Vice-Chairman: Not tonight.

Mrs. Campbell: Perhaps, Mr. Chairman, it would be good in this committee, since we seem to sit so rarely at night in comparison with other committees, that we might start a little more promptly.

Mr. Vice-Chairman: So we will adjourn then for the vote and we will resume sitting until 6 o'clock.

The committee recessed for a vote in the House.

[5:15]

On resumption:

Mr. Vice-Chairman: Okay, we'll resume the committee hearing. I have two speakers on my list and we're still dealing with item 1204. I take it from previous remarks that we're allowed some latitude in sticking with a vote

as opposed to sticking with an item? The first speaker is Ms. Sandeman.

Ms. Sandeman: Yes, Mr. Chairman, I would just like to pick up on the remarks that Mrs. Campbell was making when we broke, about what happens to victims of rape when they come to court.

I thought it was significant that we heard it said that it is still necessary to warn women who are involved in rape charges that they are going to have a difficult time in court. It's significant because the way in which it was said took it so much for granted that that's still going to happen. I think that until people at the very top level in the administration of justice stop taking it for granted that that is going to happen, it will continue to happen.

It seems hard for people to understand how destructive that process is to women who have been victims of rape. I think the cause of humanity in that situation was set back somewhat by the Ombudsman's remarks recently. A lot of women were quite distressed to hear Mr. Maloney's musings on the subject.

I would like to ask you if you really do take it for granted that it is always going to be difficult for victims of a rape when they come to court? Can you not find some positive way of getting it through to Crown attorneys that the victim is not on trial?

Hon. Mr. McMurtry: In fairness to Mr. Greenwood, as you know there was a recent amendment to The Criminal Code—

Ms. Sandeman: Yes, I'm aware of it.

Hon. Mr. McMurtry: —with the intention of alleviating this problem. The Crown attorneys are generally pretty sympathetic. The problem is to get the message through to defence counsel. The problem of protecting the female witness from abuse is complicated because the line between legitimate cross-examination and what becomes a sort of abuse of a witness is a very difficult one to draw. I think it's a fair statement to say that it is going to be an ordeal for any woman. If somebody has a proposal as to how one makes it less of an ordeal without removing some of the accused's fundamental rights to have the complainant's evidence tested by a fairly searching cross-examination, I think everyone here would be very sympathetic. It's just a damned difficult problem. I must admit I often say to myself, being the father of three daughters, what would my reaction be knowing what I do know about the system? What would my own advice be to my own

daughter? Under the circumstances, I don't know.

Mrs. Campbell: You'd know.

Hon. Mr. McMurtry: And what could we do to make it less of an ordeal without seriously encroaching on the rights of the accused? It's a very serious dilemma.

Ms. Sandeman: Could we pursue that just for a second? Sometimes when you put things into a personal context you achieve a certain clarity of thought. What would you advise your 17-year-old daughter if she were raped? Would you advise her, with your knowledge of the courts, to proceed with charges? If not, why not? And then you can put your finger where the problem is.

Hon. Mr. McMurtry: I have no difficulty on putting my finger on where the problem is. In the abstract, or until it actually happens, I would like to think that where there is an offence of that nature and of that severity, it would be in the public interest to report it and therefore I would like to think that I would advise my daughter accordingly. But knowing the fact that there is a likelihood of a preliminary hearing and a trial in which, even if defence counsel are relatively gentle, the element of ordeal is still there, it's obviously an area, regardless of how the cross-examination is conducted, that's pretty bloody unpleasant.

Ms. Sandeman: That's true, and it always has been. I would hope the amendments to The Criminal Code stop the unpleasantness of delving into a woman's previous history. I know that's intended.

Mr. Roy: On that point, is there a discretion left with the trial judge in some circumstances to either allow further cross-examination into the woman's background or, in the alternative, to close the court to have it in camera or something?

Hon. Mr. McMurtry: I don't think there is any discretion to hold it in camera. Is there any discretion with respect to holding it in camera, Mr. McLeod?

Mr. McLeod: The amendment calls for notice to be given as to the intention to cross-examine, together with particulars of the evidence that the cross-examination is going to be seeking to adduce; then the judge, after holding a hearing in camera—in the absence of the jury, if any—must be satisfied that the weight of the evidence is such that to exclude it would prevent the making of a just deter-

mination of the issue of fact in the proceedings.

Hon. Mr. McMurtry: Yes, but there's no right to conduct any portion of the trial in camera.

Mr. McLeod: No, not in itself.

Mrs. Campbell: It's like a voir dire proceeding.

Mr. McLeod: It's a voir dire in camera.

Hon. Mr. McMurtry: Yes, it's a form of voir dire in camera.

Mr. Roy: But is there not an overriding principle in law that there is some discretion in the trial judge to hold parts of proceedings in camera? Is that not a general principle that's in there? I thought it was.

Hon. Mr. McMurtry: To hold any portion of a trial in camera?

Mr. Roy: Yes.

Hon. Mr. McMurtry: None.

Mr. Roy: None?

Mr. Callaghan: Not in a criminal trial—only if the accused consents.

Hon. Mr. McMurtry: Only if the accused consents, but not without the accused's consent.

Mr. Callaghan: Only if the accused consents; if the accused doesn't consent, he is entitled to his trial in public. The judge can hold a voir dire on the admissibility of evidence if he wants.

Mr. Roy: But I still thought there was a discretion; and I thought there was jurisprudence, if I recall my younger and more knowledgeable days in the Crown attorney's office—

Mr. Callaghan: With respect, I don't think there's any case law permitting any criminal trial to be held in camera against the consent of the accused. And even with the accused's consent, I'm not even sure that they have the authority.

Mr. Stong: Only in juvenile court.

Mr. Callaghan: Yes, in juvenile court they have that authority. But it's a fundamental principle of the criminal justice system that it must be seen to operate.

Ms. Sandeman: Just one final question: I'm satisfied that the amendments to the Code will prevent what has so often happened in

the past, that in effect it is the victim who ends up being on trial and defending her previous conduct. Are you satisfied that that amendment will deal with that problem?

[5:45]

Mr. Callaghan: I think it will help deal with it. I don't think it will deal with it entirely. Obviously the judge can decide that her past conduct is relevant to the issue—

Ms. Sandeman: Yes. That's—

Mr. Callaghan: —and that comes out again.

Ms. Sandeman: There we are again.

Mr. Callaghan: The judge in any rape case, you must remember—usually there's a young man saying either "She consented" or "I didn't do it."

Ms. Sandeman: No, I'm not talking about the actual event of the rape—either "she consented" or "I didn't do it,"—but the line of questioning which suggests she has been promiscuous in the past and that because, there's a certain—that kind of questioning.

Hon. Mr. McMurtry: I think it will largely be eliminated because I think judges are very concerned about this.

Ms. Sandeman: Yes. Okay.

Hon. Mr. McMurtry: Okay?

Ms. Sandeman: Well—

Hon. Mr. McMurtry: I'm not trying to shut you off.

Ms. Sandeman: I'm shut off.

Mr. Callaghan: We've succeeded.

Mr. Stong: On that one point, the only thing, I suppose, that is relevant to what you're saying and what the deputy Attorney General said, is that if the defence is one of consent, you don't want to deprive an accused of basic rights he has to delve into and test the credibility of the witness.

Mrs. Campbell: If it's a defence of consent you've got to give him the opportunity.

Mr. Stong: That's one of the problems.

Ms. Sandeman: Yes, but you've got to—

Mr. Vice-Chairman: I wonder if we might address questions through the Chair to the minister instead of questions, not through the Chair, to one another.

Ms. Sandeman: Yes. The pitfall of that line of questioning has always been if we can prove that in the past she consented to an act of sexual intercourse with a male, then we can prove somehow that she consented to this one. This is the fear that women have—that having consented in the past, it means therefore you are the kind of young woman who would consent on all and every occasion. We all know that's not true. The fear that women have had in the past is that that line of questioning is totally unethical, I guess is the word. We don't want to remove the rights of the accused to prove consent on that one occasion but that one occasion is all that's before the court.

Mr. Vice-Chairman: Mr. Stong, did you have some other questions?

Mr. Stong: Actually, Mr. Lawlor made reference to the justices of the peace earlier this afternoon and probably my remarks would be more appropriate under the next vote, unless we're discussing justices of the peace in this vote?

Mr. Lawlor: Yes, I'm saving the justices of the peace up.

Mr. Stong: My remarks are going to be on the justices of the peace.

Mrs. Campbell: I have a question of the Attorney General. My understanding was that there have been some interesting experiments in the judicial procedures in Israel dealing first with the matter of children before the courts when there has been a sexual offence; and secondly, as far as women are concerned. Has the Attorney General any knowledge of the situation in Israel? Has he looked at it? Has anyone in the ministry?

Hon. Mr. McMurtry: No, I wasn't aware of that. I know we've looked at some things they're doing there or have done in relation to alternatives to a preliminary hearing, which is a form of a pre-trial disclosure, but I'm not aware of the subjects you've mentioned. I'd be interested in exploring those avenues, and I will do that.

Mrs. Campbell: I would ask you to.

Mr. Vice-Chairman: Are there any other items to be discussed under vote 1204?

Mr. Lawlor: Three swift items. The Crown has 18 different departments. There's the common legal services where the people are seconded.

The Attorney General's report of a year or so ago talks about damage actions—great

numbers of motor vehicle ones—including the Ontario Provincial Police, the Ministry of Transportation and Communications and other ministries. It says, "Crown employees are being continually injured through the actions of others. On their behalf claims are being made against the wrongdoers. Suit has been brought on behalf of the Crown for the recovery of substantial assessment."

When you say suit is brought on behalf of the Crown, I take it that means it's not for loss of consortium to speak? It's really suit brought on behalf of the injured individual through the auspices of the Crown law office and legal services? In other words, people working for the government are in somewhat of a privileged position. They don't have to initiate their own lawsuits.

Mr. Callaghan: Invariably the government and the individual have a joint interest. The great majority of those cases come under the Workmen's Compensation Board legislation as a subrogated claim. The Crown will be suing on behalf of the government interest and the plan is if the injured workman wants to join the lawsuit and he can join and anything recovered in excess of what he gets from the insured aspect goes to him.

There always has to be a Crown interest. We don't act on behalf on the individuals.

Mr. Lawlor: That would mean that if in the course of their duties a flower pot falls negligently from the local apartment building you don't act—or do you do it, portal to portal?

Mr. Callaghan: No, we won't act if a flower pot falls on them.

Mr. Lawlor: You don't eh? No flower pot cases.

Ms. Sandeman: What if snow falls off the roof onto a member's car?

Mr. Lawlor: Yes, what about that?

Mrs. Campbell: What about that?

Ms. Sandeman: And damages the car quite considerably?

Mr. Callaghan: A member can sue the government.

Mrs. Campbell: By leave?

Mr. Callaghan: No, just send us notice under The Proceedings Against the Crown Act and we'll be pleased to defend the Ministry of Government Services for not shovelling off the roof! We might settle with you if you have a good case.

Mr. Roy: What's the limitation then, six months?

Mr. Lawlor: I think it's an act of God. I wouldn't sue the government on those grounds. You know what happened to me, Roy, do you?

Interjections.

Mr. Lawlor: Is John Hilton running common legal services?

Mr. Callaghan: Yes, I'm sorry, he is. He couldn't be here.

Mr. Lawlor: That's okay. He's becoming the grand panjandrum of great empire, isn't he? That particular area has expanded in the past year from 171 legal personnel up to 211. That's one area that does continue to expand, eh?

Mr. Callaghan: That's primarily because last year we took over the legal service of the Ontario Housing Corporation which, up to that time, had been operating outside the umbrella of the common legal service, if you want to put it that way. It was brought into common legal service, it being an agency of government but not a ministry. It hadn't been in the common legal service up to that point in time.

Mr. Lawlor: When you brought the legal officers in those various ministries under the umbrella of the common legal service, do the same men remain pretty much in the same areas, year after year?

Mr. Callaghan: I'm not sure what you—

Mr. Lawlor: Take a labour guy whose expertise—

Mr. Callaghan: Depending on the circumstances, we try to move the younger ones around so they get a developed exposure—

Mr. Lawlor: Right.

Mr. Callaghan: —a wider exposure to all the legal services of government. We find that senior people who have spent many years with the ministry very often have developed an expertise in their particular field and don't want to be moved and the ministry does not want to lose them because they will not be getting somebody with equivalent experience. So it really usually depends upon the age and experience of the individual involved. We have been moving people around though and when a vacancy occurs within one ministry we try to recruit for that vacancy from among the people in the other ministries, if they're

interested. As there is such a variety we try to accommodate their professional desires.

Mr. Lawlor: I think there needs to be some fluidity here. What happens is a man becomes pre-empted to his own ministry and his general overseership of the law. They tend to become hardly partisan in this particular regard and if you give a little more elbow room and shift him over to Environment for a while you may find out that his support of the noxious fumes emanating from Transportation and Communications might be offset by a wider vision of what reality is all about.

Mrs. Campbell: Then there's constitutional law.

Mr. Lawlor: Yes, that's most mind expanding, if not boggling.

Why does Transportation and Communications need so many lawyers?

Mr. Callaghan: Primarily for land claims. Expropriation takes a great deal of legal time in that department. Basically that is the—

Mrs. Campbell: They need title searchers, then they know what land they need to acquire.

Mr. Lawlor: That's an area where well-trained paralegal personnel might be of great value. The dry as dust stuff, just drivel. Imagine a fine, whole mind—a subtle lawyer sitting there looking at them—"bloody sheets!"

Mrs. Campbell: Well you see, they know they've got to look where the land is.

Mr. Roy: As a matter of interest, Mr. Callaghan, on the hiring of Crown attorneys, a few years back it was more difficult to get people. But with the mushrooming in the volume of lawyers coming into the profession in the last few years do you have a lot more choice now? Can you be a lot more selective?

Mr. Callaghan: Yes, we don't have trouble hiring younger competent lawyers. We still have trouble holding the experienced lawyers.

Mr. Roy: You have trouble holding them?

Mr. Callaghan: Yes, there is a certain pressure at the top, when a man has been with us for 10 or 15 years, to try his luck in private practice. It's obviously hit us over the past 12 to 18 months. We lost many senior people, very competent people, and we were sorry to see them go. That's the hardest part of it because you can't replace the experience. I can hire people who are out 10 or 15 years,

but they don't bring 10 years' government experience.

Mr. Roy: You've lost Cartwright, you've lost Powell. Who else have you lost?

Mr. Callaghan: Cartwright, Powell, Manning.

Mr. Roy: Manning has gone too?

Mr. Callaghan: Yes.

Mr. Roy: I see.

Mr. Callaghan: We have replaced them with very competent people too.

Mr. Roy: I don't doubt that.

Mr. Callaghan: Studying these estimates has probably shown you that we have replaced them with extremely competent people.

Mr. Lawlor: Are they all practising criminal law?

Mr. Callaghan: Yes, I would say primarily they were practising criminal law one way or another.

Mr. Lawlor: They certainly made the right context if they—

One final question on the whole vote, as far as I'm concerned. It's drafting. When I read it, it came as some news to me that under this vote, drafting is "primarily the responsibility of the Office of the Legislative Counsel and the ministry's legislative programme was primarily the responsibility of policy and development. The branch is frequently involved with preparation of legislation in instances where change in legislation may be necessitated by reason of a judgement in court."

In other words, is this saying that legislative counsel are not the ones to monitor the judgements of the court; that they don't particularly lend themselves to doing that but that this particular area under this vote does; that it's the one that picks up where the

court criticizes or says the interpretation is not according to the golden rule or any simple-minded rule and, therefore, you need to move in quickly and change it? Is that where it all falls?

Mr. Callaghan: Yes, it usually falls in that area. The solicitor who is primarily responsible for seeing that the legislation is implemented in his particular ministry or in the Crown law office who is assigned to various ministries will be the first to spot the difficulty that the administrators or the public are experiencing with a piece of legislation. They'll develop the policy. Legislative counsel will then effect the drafting, if the policy is accepted by government.

Mr. Lawlor: There is quite a liaison there, though.

Mr. Callaghan: Oh, yes, sir.

Mr. Lawlor: There is consulting back and forth?

Mr. Callaghan: Oh, yes. I think the solicitors in every ministry consult with the legislative counsel or the registrar of regulations almost all the time. The senior legislative counsel oversees the total legislative programme to ensure that the product is similar in quality and that the substance of it, the policy of it, is developed in the various ministries. The lawyer's responsibility is to bring forward to those ministries the impact of particular decisions on their legislation.

Mr. Lawlor: Okay.

Item 3 agreed to.

Vote 1204 agreed to.

Mr. Vice-Chairman: Are there questions to be raised on vote 1205, legislative counsel services?

Mr. Lawlor: Yes, I have a few questions.

Mr. Vice-Chairman: I was afraid of that. Okay.

The committee adjourned at 6 p.m.

CONTENTS

Thursday, November 4, 1976

Crown legal services programme	S-2775
Crown law office	S-2775
Crown attorneys system; Common legal services	S-2783
Adjournment	S-2799

SPEAKERS IN THIS ISSUE

Breaugh, M.; Vice-Chairman (Oshawa NDP)
 Campbell, M. (St. George L)
 Lawlor, P. D.; Chairman (Lakeshore NDP)
 McMurtry, Hon. R.; Attorney General (Eglinton PC)
 Peterson, D. (London Centre L)
 Roy, A. J. (Ottawa East L)
 Sandeman, G.; Acting Chairman (Peterborough NDP)
 Sargent, E. (Grey-Bruce L)
 Stong, A. (York Centre L)

Ministry of the Attorney General officials taking part:

Callaghan, F. W., Deputy Attorney General
 Greenwood, F. J., Assistant Deputy Attorney General, Criminal Law
 McLeod, R. M., Senior Crown Counsel, Criminal Appeals and Special Prosecutions
 McLoughlin, B. W., General Manager



Government
Publications

Legislature of Ontario Debates

SUPPLY COMMITTEE — 1

ESTIMATES, MINISTRY OF
LABOUR

OFFICIAL REPORT — DAILY EDITION

Third Session of the 30th Parliament

Thursday, November 4, 1976

Evening Session

Speaker: Honourable Russell Daniel Rowe

Clerk: Roderick Lewis, QC

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CONTENTS

A list of the speakers taking part in the debates in this issue of Hansard appears, in alphabetical order, at the back of this issue.

Daily contents of proceedings also appears at the back of this issue. Reference to a cumulative index of previous issues can be obtained by calling the Hansard Reporting Service indexing staff. (Phone 965-2159)

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LEGISLATURE OF ONTARIO

SUPPLY COMMITTEE

THURSDAY, NOVEMBER 4, 1976

The committee resumed at 8:10 p.m.

ESTIMATES, MINISTRY OF LABOUR (continued)

On vote 2201, ministry administration; item 1, main office:

Mr. Chairman: Now that we have a quorum, vote 2201, item 1. Mr. Bounsall.

Mr. Bounsall: Mr. Chairman, is the minister through with her reply to the opening remarks? You were in full flight at 6 o'clock.

Hon. B. Stephenson: I can restrain myself until you have completed yours.

Mr. Bounsall: We are on the main office vote now in which we have the salaries of the minister, the deputy minister and assistant deputy minister; and their general overall policy-setting roles.

I am fully aware that there will be a time segment set aside in December, likely of two to five days, for Workmen's Compensation Board before committee, as the normal practice is, so I am not going to get into any of the detail of the Workmen's Compensation Board. On the policy decisions affecting the board's operations, this is the only vote under which that must come and my question is: Having, in June, 1974, decided for the first time to attempt to put a cost of living factor on pensions, recognizing that it should have been done and gearing it back over 25 years to one-third of the amount it should have been; and then, confirming that even though you had the incorrect base for a change that occurred in 1974, you increased it in June, 1975, by the full percentage increase in the cost of living which occurred between June, 1974, and June, 1975; it is now well past June, 1976, and there has been no adjustment to the Workmen's Compensation pension for the cost of living increase that has accrued and occurred since June, 1975. It must be a policy decision of the ministry, perhaps in consultation with the Workmen's Compensation Board, not to adjust those pensions according to the cost of living, hav-

ing done it in the first place in 1974 on a policy basis, albeit an incorrect one and too low, but, in 1975, adjusting it by the full—
[8:15]

Mr. Mancini: On a point of order, Mr. Chairman.

Mr. Chairman: On a point of order?

Mr. Mancini: Does this come under the vote of main office?

Mr. Chairman: Yes.

Mr. Bounsall: It's a policy decision of the main office.

Mr. Chairman: Go ahead.

Mr. Bounsall: The ministry policy makers have either decided that it was a mistake and shouldn't be done or you have decided to delay it well beyond the time when it should be paid. I would like you to say what your policy thinking is in this area. Have you decided to drop adjustments to pensions, adjusting them according to the cost of living, as you did for two consecutive years? That must have been a major policy decision within the ministry. Has it gone by the board because of lack of attention—you haven't got around to it yet—in which case we are well beyond the time when it's needed; or has it been a policy decision to discontinue that practise?

Hon. B. Stephenson: No, no, no. As you are probably aware in 1976, as was recommended by the task force on the Workmen's Compensation Board, we appointed a committee known as the joint consultative committee which is made up of individuals who are not members of the Workmen's Compensation Board; are not members of staff; are not members of the Ministry of Labour; but are indeed concerned, interested and knowledgeable citizens. They are functioning as an advisory committee to the Workmen's Compensation Board itself.

In 1976, with the accounting which took place as a result of the increases in pensions across the board practically, there was a good

deal of consternation registered within the employers' community about the increasing cost to employers to fund the increases in pensions. As a result of consultations which we had with both employer groups and employee groups, it was decided that the problems and the suggestions which were raised at the meetings we had—and we had many of them—should be submitted first to the joint consultative committee for their consideration and recommendations. They will then submit them to the board and when the board has considered them, we shall receive them.

The joint consultative committee has not as yet finalized its deliberations in this area but they will be, I anticipate, reporting to the board relatively shortly. When the board has considered the recommendations of the joint consultative committee they will be notifying us.

There has been no change in policy. I think it was practice rather than policy; I don't know. There has been no major alteration in anything except that the process is being given an added area of deliberation which it did not have before and which we think is probably very important. It brings in the citizens within the community who have some concern and who have some knowledge about the Workmen's Compensation Board; about the problems of injured workmen as well; and about the proposals which are made to us by both the employer groups and the employee groups. We think that information and those opinions will be of great value to us in the decision-making process.

Mr. Bounsall: When was that joint consultative committee formed?

Hon. B. Stephenson: It was recommended in the task force report. It was appointed in either March or April of this year and the first responsibility which the members assumed was an examination of this specific subject.

Mr. Haggerty: When was that task force report tabled?

Hon. B. Stephenson: In 1973.

Mr. Haggerty: In 1973. That's a long time to take to appoint such an important body, isn't it? Three years.

Mr. Bounsall: At least it was appointed under this minister's jurisdiction. That was the problem they were addressing themselves to. Do they meet monthly or twice a month?

Hon. B. Stephenson: They met more frequently than that, as a matter of fact, in the beginning. I think they are meeting monthly now but, in the beginning, they were meeting more frequently than that.

Mr. Bounsall: Have you asked them when they will be presenting that report to the Workmen's Compensation Board?

Hon. B. Stephenson: Yes, they have a document which they are presenting to the board this month on the subject of levels of pensions and the related problems.

Mr. Bounsall: Do you know if they have considered, or do they have in their terms of reference to consider, a New Zealand type of scheme, where it isn't tied just to the injured workman? Is it within their jurisdiction to investigate the setting up of a New Zealand or Australian type of scheme of comprehensive sickness and accident insurance?

Hon. B. Stephenson: That's being examined by a number of groups, as a matter of fact, Mr. Bounsall, and not just by the joint consultative committee.

Mr. Bounsall: But are they also doing that?

Hon. B. Stephenson: Yes.

Mr. Bounsall: What other groups are doing that?

Hon. B. Stephenson: The board itself is doing it, and we're looking at it in a committee within the ministry as well.

Mr. Bounsall: I asked that because the board has stated a couple of times that it is very interested in that sort of a scheme coming into effect. With them, you get the feeling that the decision doesn't rest with them; that no matter what they might think, it isn't up to them to propose it, push it and what have you.

Hon. B. Stephenson: But if they came in with a very strong recommendation in that direction, I'm sure it would be most seriously considered.

Mr. Bounsall: I think they feel they would need some shoving, to which they would gladly respond. I'm glad to see two other groups at least are on it—although the proliferation of groups considering the same thing doesn't thrill me.

Hon. B. Stephenson: There are other methods of funding which are also being

examined, but certainly the New Zealand scheme is one that is being looked at.

Mr. Mancini: Do you mean for funding the Workman's Compensation Board?

Hon. B. Stephenson: Yes.

Mr. Mancini: Such as?

Hon. B. Stephenson: There are a number of combinations. There were suggestions made last year about sharing on the part of employees; that's being examined. Funds coming from other sources, as a matter of fact—from general revenue, for example—this is also a possibility which has to be examined.

Mr. di Santo: Speaking of the Workmen's Compensation Board, I think an area where a policy decision is required is the re-employment of injured workers who are permanently partially disabled. As you probably know, Madam Minister, this is one of the most serious problems facing both the Workmen's Compensation Board and the injured workers, because there is no provision whatsoever today that employers, either in the public or private sector, have to re-hire injured workers. As you also know, there are many jurisdictions where there are some such provisions for injured workers.

In the past, this government has been approached about this many times, but there has always been a negative response from the government. I'm saying this, because I know the amount of money that the Workmen's Compensation Board is spending in terms of consultants and supplements to injured workers who are permanently partially disabled, and who are unable to find a job on the basis of section 42, which allows them the supplement during the period of time that they are looking for a job, but almost no employer will hire an injured worker unless he is forced. Do you think that at this time you can at least consider studying this problem and try to bring in a solution?

Hon. B. Stephenson: I'm aware that there is an interministry committee, which I suppose is related primarily to the social policy field but into which we have some input, and that committee is attempting to provide some solutions to this problem. This was also something to which the joint consultative committee has been asked to address their thoughts. I should clarify the fact that although I said that indeed the task force was in 1973, the change in The Workmen's Compensation Act did not occur until 1975.

It was the summer of 1975, I think, that the Act was passed in the House.

Mr. Armstrong: July 1975.

Hon. B. Stephenson: July, 1975. And the committee was appointed in March.

Mr. Armstrong: Section 70(3)(h) is the reference to the joint consultative—

Hon. B. Stephenson:—consultative committee, right.

Mr. di Santo: But at least the provincial government could—

Mr. Chairman: Order, please. Mr. Bounsall has the floor.

Mr. di Santo: I am sorry, Mr. Chairman.

Mr. Chairman: We have to work in the other members.

Mr. di Santo: I am sorry.

Mr. Chairman: You can follow Mr. Mancini.

Mr. Bounsall: Yes, I had another point in this area. Mr. di Santo in fact touched on some of it. Now I know that the amendment to the Human Rights Code prohibits discrimination on the basis of disablement, but you sort of have to prove your case, and then lay the charge and then the employer is gone after on that basis. The only alternative to that is an educational programme being run by your already overworked Human Rights Commission field officers. So I think that's the least helpful if we are really being serious.

The other would have to be a policy decision on your part to bring in legislation of the kind there is in England where a certain percentage of disabled persons must be hired. I think the figure is three—

Hon. B. Stephenson: Three per cent.

Mr. Bounsall: Three per cent.

Probably a job is found for all the injured workers in a particular company—if they have to hire a percentage, they will hire back their own injured. It also opens up the whole field of employment to other disabled persons who have great difficulty getting jobs. The two areas that come to my mind are the epileptics and others whose physical handicaps aren't readily discernible. When they go in and don't mention that, and take a position, and they have the first—what do they call it?—petit mal, when they need a drink of water and if they get it soon enough, it prevents

them from going into it—that's very frightening for an employer who has never seen it.

The loss of time because of a petit seizure is negligible. When employers know there are ways it can be controlled, they are liable to have a changed attitude. I would think that hiring people in that area may cause them to understand that epileptics are not really any different performance-wise than the rest of the population. They have a little problem which employers should be aware of, which they and their other employees can help watch, which isn't going to affect overall performance.

That's one area that will be helped by that type of legislation—people who are on welfare now, and people who are supported almost entirely by their families and with very little opportunity for employment.

The other one is an even more startling case because of the type of disability and because of the expenditures which the ministries in the government have already made. I am talking of those with organ transplants.

I have a chap in Windsor who had a kidney transplant some year and a half ago now and it was a complete success. He has a whole lot of executive abilities, had previously held executive positions, but because of his kidney problems some seven or eight years ago, he had to drop out of the work force. He was on a kidney machine for seven years. He finally got the transplant. The operation was a tremendous success—and no one will hire him. He's a medical miracle and, in a sense, a complete social failure. No one will hire him.

He told me that a quarter of a million dollars had been spent on him medically by the province of Ontario, and now he can't get a job. When I questioned that it had been a quarter of a million, he sat down and figured out the hospitalization he had—he had to do it quite quickly—and the cost of the kidney machine, the cost of the operation and the recuperative period; it was over a quarter of a million dollars that had been spent on him medically—for what purpose, if no one will hire him?

[8:30]

He is in this anomalous situation in that he is completely recovered; his doctor will attest to this. I don't know what the success or failure of kidney transplants are but apparently his was superbly good. He is perfectly normal; the doctor certifies him ready, willing and able to take virtually any job, but he can't get one because he has had a transplant.

He then looks to what other source of funding he might get because he can't get any employment and it all depends on his doctor; in terms of a permanently unemployable pension and so on, it depends on his doctor being able to say he is not well enough to work, so the guy is caught. He's well enough to work but no one will hire him because of the kidney transplant and a doctor can't in all conscience—in order that he get some sort of continuing permanent pension rather than just going on welfare—fill out a form saying he is totally unemployable because he knows he isn't. He is not medically at the state where he is unemployable.

What do you do with this type of person in our society?

Hon. B. Stephenson: That is most unusual because most of those who have had successful kidney transplants are indeed working. There are very few of them who are not. Our success rate in that area in medical practice in Ontario specifically has been particularly good and although the cost may be very great, it does produce an extension of life which was unheard of 20 years ago. But indeed most of them are in fact working at some kind of job, so that I think is a rather unique case.

The others you mention are not unique, particularly the epileptic. This year both the vocational rehabilitation officers in the Workmen's Compensation Board and indeed our own employment standards officers have been informed personally of at least half a dozen in various areas, and the route is to phone immediately to the employment standards officer in the area and ask that officer to function on a conciliation basis with the employers and attempt to reconcile the job loss or the lack of employment—with some success I must say. But that is not the solution. The solution is indeed to protect the rights of an epileptic particularly, which is something I think the code is going to have to do without question this time.

There is I think a little bit of difficulty which one must consider in establishing a quota for the employment of the handicapped. It unfortunately tends at times to work against the group that is so dealt with, in that the employers saving three per cent or five per cent of their jobs for the handicapped tend not to permit those employees to attempt to function in jobs other than perhaps the lowliest. They tend to categorize the jobs for the handicapped at the lower

level and do not provide them with employment opportunities.

I think affirmative action in this area would probably be more effective, but I think we have to do more than just that. Indeed this problem, as I said, is also being examined right now and I am hopeful we are going to find a rational solution to it.

You may be aware that there is a conference on employment for the handicapped which is going to be held at the end of this month here in Ontario. We are going to participate because hopefully we are going to learn something. There are going to be some people from various other jurisdictions in which they have had other programmes with greater or lesser success. I am very interested in this because this is a problem which I see must be resolved.

Mr. Bounsall: If I could just follow up a minute. You say that most kidney transplant patients have no problem getting employed?

Hon. B. Stephenson: Very little apparently.

Mr. Bounsall: Is that because they are returning to employment they haven't been away from for long? Is that the reason?

Hon. B. Stephenson: If the individual you mentioned as having been on a machine for seven years has been out of the work force for a very long time, then I think that's probably the factor rather than the others. Most of the others have not actually had to be—we are in a problem state right at the moment, as you know, in terms of kidney transplants. There just are not enough kidneys—

Mr. Bounsall: All right—

Hon. B. Stephenson: —and this is going to be an increasing problem as long as the donor supply is small.

Mr. Bounsall: But part of the other problem though, in that he was on dialysis so long, is that he doesn't live in a centre that has a hospital that does the transplant. This must apply to an awful lot of centres in Ontario, and those persons who are on machines in those centres, rather than in the practice of a doctor who has a hospital that doesn't—

Hon. B. Stephenson: If they're eligible for an organ donation they're on the grid and it doesn't matter where they live.

Mr. Bounsall: I've gone through all that with the ones at Windsor and they're now getting it, but not until after one heck of a storm was raised. All the medical centres that did it said to me when they wrote: "Oh

yes, there's an all-Ontario list but we'll take our own patients first because they're quicker to get in here." That's what they said. That's how these few have now come through—eight in the last 18 months as opposed to none in seven years prior to that. So it's maybe working for other communities which are far away from a centre where kidney transplants occur.

Hon. B. Stephenson: If there is any medical problem that has been well organized in this province it's the dialysis and transplant programmes.

Mr. Bounsall: But at one point it was not working well in terms of which patients on dialysis got the transplant. That is why this chap was on so long, in fact.

You say the major reason is because of the length of time he was out of the work place. He was out seven years. He had held various executive posts—executive vice-president in one case—and he was told, virtually, by private industry: "There's no way we're going to take you back. I doubt if you'll get a job in private industry."

He is now trying to get into some sort of government employment but that's another story. But if it can happen in his case—

Mrs. Campbell: Why don't you have him make his application right here? It would make a good test.

Hon. B. Stephenson: Why don't you let us know what his name is?

Mr. Bounsall: I can give it to you, yes.

Hon. B. Stephenson: Okay.

Mr. Bounsall: But to conclude, what you're saying is your effort in the area of the employment of the handicapped is more likely to be, not legislation specifying—

Hon. B. Stephenson: I didn't say that.

Mr. Bounsall: —a proceedings but a Human Rights amendment.

Hon. B. Stephenson: I didn't say that either. I said that ideally, affirmative action is the route to go in this area, because attitudinal changes are the things which, I think, are most severely required right now. However, I don't think we're going to be able to wait for attitudinal changes and I think we're going to have to do something more than that.

Mr. Bounsall: And that something more isn't evident yet?

Hon. B. Stephenson: It's not clearly delineated as yet, no.

Mr. Bounsall: There's a need for it, Madam Minister, to be delineated quickly.

Hon. B. Stephenson: Right.

Mr. Mancini: I also would like to speak under the heading of main office. I notice here that there is \$412,000 spent in salary and wages and I'd like to know from the minister how many employees in this particular category are making over \$30,000 per year.

Also, getting to the point of the policy direction of the Minister of Labour—I believe I mentioned this in the last estimates of the Minister of Labour—I believe very strongly that it's your job as Minister of Labour, to set the tone and the policy for the rehiring of injured workers. I say this without hesitating at all.

I think you should start a major programme of hiring injured workers and you should also suggest to the private sector that they do the same. I believe, in this way, we will possibly get a good start in local levels of government and the federal government might follow suit. I believe that's the only way we're going to solve our problems with injured workers.

I believe my colleague, Mr. di Santo, has mentioned that a great deal of money has been spent in the Workmen's Compensation Board and I have to agree with him. I think we're going to have to take the attitude that just because a person has become injured that he is no longer fit or able to be a very productive person in our society. As you are a medical person, I'm quite sure that you're compassionate enough in this area to take these steps. I certainly would be one of the people who would endorse this and support you all the way.

I have a question. I noticed also under the heading of the main office that you have blind workmen's compensation and I believe it is a \$10,000 expenditure. I am very curious to know how this comes under the heading of main office. How do you work this system of spending \$10,000 under this particular category? How do you give out the money? Also, in the section for miscellaneous grants I see the figures of \$1,000 and \$11,000. I would like to know what these grants are for and who you give them to.

Mr. Johnson: It is only \$1,000.

Mr. Mancini: I'm sorry; \$1,000. I have to agree with my friend from Windsor, Mr.

Bounsall. I am very disappointed, as he is, that the pay for injured workers has not been raised. I agree with him—I don't believe it should be up to the task force to suggest to the minister that this should be raised. I think this should come from the minister and should be part of her overall policy. I think I will stop my questions there.

Hon. B. Stephenson: The answer to your first question is three. There is an active programme within the Workmen's Compensation Board to encourage the re-employment of injured workmen within the private sector. That is a part of their policy and their commitment and I am aware that they attempt to carry it out.

Mrs. Campbell: Not very successfully.

Hon. B. Stephenson: In some areas it is very successful but in other areas it is not. That is entirely too true. The employment of those with permanent disabilities is a problem, as I suggested, with which we are continuing to wrestle and hopefully we will find a successful solution at some point.

Mr. Armstrong: The number over \$30,000 is two.

Hon. B. Stephenson: It was two, not three? Okay. Your next question was about blind workmen's compensation. That is a grant which is made by the Ministry of Labour—I think the CNIB administers the grant does it not? Who administers the blind workmen's compensation fund to which we make the grant? I think it is the CNIB. It is a grant which is made yearly.

Mr. Webster: The Blind Workmen's Compensation Act allows industry, through the auspices of the CNIB, to hire people with impaired eyesight. When they hire these people, and there is an accident, the Ministry of Labour is billed for all medical and hospital charges. The industry itself is not charged.

Mr. Mancini: Are you telling me that this \$10,000 is a grant which allows industry to hire people?

Mr. Webster: No, it is not a grant. It is a provision for payments which we would have to make.

Hon. B. Stephenson: To the Workmen's Compensation Board.

Mr. Webster: To the Workmen's Compensation Board.

Hon. B. Stephenson: I am sorry that I misled you. I wasn't sure about that.

Mr. Mancini: I am sure you wouldn't do it purposely.

Mr. Bounsall: On that figure, is that a monthly coverage? The figure is about the same as last year.

Mr. Mancini: Maybe it is not used.

Mr. Webster: It is used all right but it is a very difficult thing to estimate. We have paid as high as \$60,000 and \$70,000 from it. It has dropped, so we have reduced our estimates accordingly.

Mr. Armstrong: What about the \$1,000 miscellaneous?

Mr. Webster: That is a miscellaneous grant. There has been a provision made for it. It has not been used recently. It was made by previous deputy ministers to Ontario Research—I have forgotten the exact name of it. That is what it is for really.

Mr. Bounsall: It's a grant to where?

Mr. Webster: The Ontario Research Foundation. It is affiliated to the University of Toronto.

Mr. Bounsall: I know who they are but what are they going to do with \$1,000? What is it intended to do? The deputy minister would like to know, too.

[8:45]

Mrs. Campbell: One of his perks.

Mr. Webster: As I say it was a research grant which was given to them. I wish I could remember the name of the institute itself. As I say, it's affiliated to the University of Toronto.

Mr. Bounsall: They applied and got a grant for research for \$1,000?

Mr. Webster: No, this is an estimate only. We do not give it to them unless they apply for it.

Mr. Bounsall: Have they applied for it?

Mr. Webster: They have not applied as yet.

Hon. B. Stephenson: This year.

Mr. Mancini: Do you encourage them to apply, this group you're talking about?

Mr. Webster: No, I don't think so.

Mr. Bounsall: Could you bring back the name of this group to whom it would accrue should they apply for it and tell us tomorrow?

Mrs. Campbell: Perhaps you could find out what their service is and what they propose to do with it.

Mr. Bounsall: It's not a lot of money but it's interesting.

Mrs. Campbell: What have they done with it in the past?

Hon. B. Stephenson: That's what we're trying to find out as well.

Mr. Webster: Yes.

Mr. di Santo: I would like to make three points, pursuing Workmen's Compensation and the injured workmen who are permanently disabled. I know there is an inter-governmental committee but as the Minister of Labour, what kind of commitment are you making? Why don't you lead in this area and start pressing your colleagues to start with the provincial government and set an example to the other levels of governments and to the private sector, while we are waiting for legislation to be introduced for the injured workers who are partially disabled permanently?

Hon. B. Stephenson: I think it has been a traditional policy within the provincial government to hire handicapped people; whether they are injured workmen or not is yet another qualification. There has been, as I said, in the Workmen's Compensation programmes promotion of an activity to persuade the private sector to rehire or to hire injured workmen for specific jobs which they are physically capable of carrying out.

As I also said, the joint consultative committee has been asked to examine this question to give us the benefit of its thoughts about the best method by which such a programme could be instituted. That committee, I'm convinced, will be making a recommendation to us about that specific subject in the very near future.

Mr. di Santo: Okay. I think this is long overdue. I remember when Mr. Guindon was Minister of Labour and they were debating the estimates of the Ministry of Labour. They were talking of the same issue at that time and I hoped the consultative committee would come up with some constructive ideas.

There is another area where I think there is a need for legislation. Probably this is a

minor area but there are many people who are affected. As you know, injured workers who are on temporary total disability or who are partially disabled are not allowed to accumulate credits for the Canada Pension Plan. That means there are many people who have no right to a disability pension from the Canada Pension Plan. In the meantime, if they cannot find a job, which happens quite often, the only benefit they have is the Workmen's Compensation pension which is very low in most cases. Don't you think that these people should be allowed to accumulate credits? I know you will probably tell me that this is a problem which should be brought up with the Minister of Community and Social Services (Mr. Taylor).

Hon. B. Stephenson: No.

Mr. di Santo: No?

Hon. B. Stephenson: The Minister of Community and Social Services is involved in providing supplements in certain instances, but this is a matter which is being discussed, as I'm sure you're aware, between the Workmen's Compensation Board and the federal people who are charged with the responsibility of the Canada Pension and other pension programmes. Indeed this discussion has been going on this year, of that I am aware. About—

Mr. Haggerty: About the last six or seven years. Without much success though.

Hon. B. Stephenson: It may be even longer than that as a matter of fact, Ray, I don't know. But I know that they have been discussing it this year because I am aware that Mr. MacDonald has discussed it with them.

Mr. di Santo: May I make a suggestion, Madam Minister? I read last week in the newspaper that the federal Minister of National Health and Welfare, Mr. Lalonde, is proposing a similar provision for housewives and he is discussing it now with the provincial ministers. I think that this is a good time for you to press the issue if you consider it important.

Hon. B. Stephenson: Thank you, Mr. di Santo.

Mr. di Santo: Also, I think that under the main office I can discuss briefly the issue of the minimum wage which was already brought up by my colleague, Mr. Bounsall.

I remember last year when you were asked in Legislature whether the minimum wage was going to be raised or not. You

said it would be raised and it would be adequate.

The fact is that it was raised from \$2.40 to \$2.65 an hour, which is I think a six per cent increase, and in the meantime the cost of living has gone up. There are I think more than 300,000 people in our province who are on the minimum wage and I think that these people are really in a tough situation, because most of them have no other income in the family. I think that everyone realizes that they cannot live with \$2.65 an hour and I think that this is not even a political problem, this is a human problem.

Are you considering raising the minimum wage? And if you are considering raising the minimum wage, do you think you can change the formula of the minimum wage in a more realistic way, possibly adopting the formula that is used in Manitoba?

Hon. B. Stephenson: There are a number of factors that are involved in the determination of the minimum wage. The formula which was suggested earlier is not the only factor. Indeed, it has been kept at a level which is between 42 and 47 per cent of the average industrial wage of the province of Ontario, not the average overall hourly earnings. But there are other factors involved in the determination of the minimum wage as well.

It is under review at the moment. That review is not as yet totally completed, since there are certain specific areas in which the studies which are being done are not finalized at this time.

The number of people approximately on the minimum wage in the province of Ontario is about 250,000. Of those, 80 per cent are not the primary wage earners in the family.

Mr. di Santo: Even with the unemployment we have now?

Hon. B. Stephenson: Even with the unemployment we have now, 80 per cent are secondary wage earners in the family, not primary wage earners. Approximately seven per cent—

Mr. Mancini: It doesn't differentiate between the tipped and non-tipped employees either.

Hon. B. Stephenson: I am talking to all people who would be related to the minimum wage. It includes students—

Mr. Mancini: There is a difference between tipped and non-tipped employees.

There are employees who receive tips, there are employees who do not.

Hon. B. Stephenson: There is a tip differential in one specific area; it is something we instituted last year for a period of time and it is going to be studied to see what its effect is, in fact. But when I speak about 250,000 people, that includes everybody who is being paid at any one of the various minimum wage levels and of all of those, 80 per cent are secondary wage earners in a family, not primary wage earners. Or single.

Mr. di Santo: Really 20 per cent is quite a large amount. We are talking of 25 families or single people who are on the minimum wage and I think it is quite a sizeable number of people. But what I'd like to get from you is the assurance that you will raise the minimum wage to a more realistic level, because if it is 42 to 47 per cent of the average industrial hourly wage I think you realize that that is really inadequate today. If you consider that last time the minimum wage went up six per cent and in the meantime the cost of living has gone up in one year I suppose more than 10 per cent even if now it is not going up so fast, then with the increase you brought in last April actually they are farther behind than they were before the increase took place.

Hon. B. Stephenson: No. They are not at this point in time further behind than they were at that time.

Mr. di Santo: But when it was introduced, for sure they were behind.

Hon. B. Stephenson: In March.

Mr. di Santo: In March, yes, because the increase in the cost of living had been 11 per cent in the year before that.

Hon. B. Stephenson: And it is not at that level this year.

Mr. di Santo: And now it is seven per cent, so they are slightly behind. But in the meantime they are not recouped, so what I am saying is that when you are increasing it—I hope that it will happen soon—take into account that they are already disadvantaged and 42 to 47 per cent of the average industrial wage puts them in a pretty tough position and so you should also consider raising the level of the minimum wage.

Hon. B. Stephenson: As I said, other factors are considered, including the increase in the cost of living, in adjustments in the

minimum wage. It is not simply kept at that specific level because all of the other factors are considered as well.

Mr. di Santo: Okay. Thank you.

The last point I'd like to make under the main office is related to one that was brought up by the member for Sarnia (Mr. Bullbrook). I remember last spring your Deputy Minister Mr. Armstrong, said that in his professional life he would see some sort of worker participation. I don't know how long he thinks that his professional life will be—

Interjections.

Mr. di Santo: —and I hope that it will be very long, but I think that in Ontario we have to think seriously at this point of reviewing this whole system of the labour relations. At this point we should really consider seriously introducing some elements of the industrial democracy that are widely accepted in the western world. They have proved to be extremely useful in a period of crisis like the one we are having now, especially in West Germany where, as you know, the rate of inflation is much lower than in Canada and unemployment is almost nonexistent. Not to mention other countries like Austria where there unemployment is not only nonexistent, but where there is need for workers.

I think that one of the reasons why in Canada there is such an opposition to the idea of the workers getting involved in the management of industries where they work is because there is no conception of what democracy means at the work place. Every day we hear lots about the free enterprise system and the free market and we know that that is just nonexistent. We are operating in a society where there are gigantic groups, multi-national corporations, which operate in a monopolistic or semi-monopolistic fashion, and there is nothing like free enterprise. We are all conditioned by these gigantic groups.

[9:00]

In Ontario and in Canada we are using the same methods we were using 20 or 50 years ago in resolving labour disputes between employees and employers. We know they are not working any more. They weren't working before and they aren't working now. One of the reasons, even if many people don't think so, is that the labour movement in Canada is too weak. If we had a strong labour movement, we could have had the

co-participation of labour and management and we would be in a better position now.

The government of Ontario has been particularly resistant to any idea of worker participation in the industrial management, but I think there is a misconception here. When we talk of co-determination, which is the method of worker participation used in West Germany, we are not saying that the workers should run the industries or take over the industries—not even that they should become the managers of the industries. What we are saying is that since the workers are an essential part of the productive process, they should have a part in the decision-making process as well as the shareholders.

As long as we keep the job holders in a lower position and think we can use them only if they are profitable to the company or to the shareholders, then we will be faced with the kind of conflicts that we are facing today—and eventually they will be aggravated. One of the results, of course, was the protest day. In that connection, I really don't understand the position taken by the member for Sarnia, because while he said he would have used the day of protest as an educational day for the workers, at the same time he said he didn't believe those kinds of protests were useful because we were going towards a form of collectivism that he said could be taken out of Chairman Mao's red book.

I think that in a modern industrial society we have to look at different ways of facing labour problems, and I don't see any sign in the province of Ontario in this direction. I think we should start doing something because, as my colleague for Windsor-Sandwich said, we don't even have first-contract legislation, which is one of the minimum guarantees that the workers should have. The way the certification process is in Ontario now, if you work in a small company and belong to a small local and if you have to fight a multi-national company, you have almost no chance whatsoever to have a contract, because we know very well that a multi-national company can lock out a plant for a long time and force the workers at that plant to strike for a long time. They know the workers cannot stay out of a job for months and months while the company is producing in other plants.

I think that the legislation in this area in our province is extremely backward. I hope that your ministry starts doing something in this direction.

Hon. B. Stephenson: First, I should say that I wouldn't presume to pass judgement

on the decisions and the statements of the member for Sarnia. I am sure he had adequate reason for his judgemental decision about the October 14 day. As I said before, we are very interested in the methods which are being used in other jurisdictions and have been spending a good deal of time investigating and studying the various programmes which are existent in other countries in which industrial peace seems to reign much more consistently than it does in Canada.

I believe the philosophy of The Labour Relations Act in the province of Ontario is a permissive philosophy—one which is designed to encourage participation of the workers in collective action if they wish to do so. However, the decision of the individual must be supreme, I suppose, in that situation. You are suggesting changes to The Labour Relations Act which have been suggested by others and which we are looking at at the moment. If I could ask the deputy to make some remarks—do you want to say something about that activity?

Mr. Armstrong: Yes. In a speech to the Law Society of Upper Canada, I think the expression I used was the winds of change are blowing in other jurisdictions and we are looking at some of these experiments. Our review has been intensive and we have been looking not only at western Europe but some interesting experiments in the United States.

It should be said as well, of course, the traditional view of the trade unions in North America is that the most effective method of worker participation is really the collective bargaining process. The member for Sarnia indicated that there is some institutional opposition in this jurisdiction and in the United States towards alien forms of worker participation. In their view it may not be as effective as collective bargaining. But we certainly have not by any means precluded experimentation of the sort that you are suggesting. We are looking at it very seriously.

Mr. di Santo: Even though the man-hours or the person-hours—what's the right phrase?

Hon. B. Stephenson: I prefer man, but Mr. Bounsall likes person-hours—so go ahead, whichever he wants.

Mr. di Santo: But nevertheless we have so many labour conflicts that don't you think it would be useful to have a select committee to study this specific problem?

Hon. B. Stephenson: You are following the suggestion of the member for Sarnia?

Mr. di Santo: Oh, if he made that suggestion—

Hon. B. Stephenson: As long as you will let me be a member of the select committee so I can travel to Sweden and Germany with you, I will be very happy to be part of it. But as you know there is a restriction on ministerial travel. One is not permitted this kind of freedom.

Mr. di Santo: Yes, but on principle—

Hon. B. Stephenson: On principle, at the moment, in this period of constraint, as I said, we are attempting to do it through the collection of information from a number of sources and from the very useful contribution which a number of international experts in the area of industrial relations bring to us. Thus far, it has been reasonably successful.

Mr. di Santo: Yes, but don't you think that given our difficult financial situation we are spending much more money because of labour disputes and hours lost in Canada than in other countries where there are systems that perhaps we could adopt?

Hon. B. Stephenson: That's a very real possibility. I would like one of the actuaries to have a look at that, however.

Mr. di Santo: Thank you.

Mr. Chairman: I have the following list of speakers: Mr. Haggerty, Mrs. Campbell, Mr. William and Mr. Davison.

Mr. Haggerty:

Mr. Haggerty: Thank you, Mr. Chairman. I want to go back perhaps and follow the train of thought the member for Windsor-Sandwich (Mr. Bounsall) discussed before, concerning the task force report that was tabled in 1973 which had recommended the establishment of some type of board to review the proposals and to bring in new ideas. I think the minister mentioned that there are two boards, the joint consultative committee and an advisory board—

Hon. B. Stephenson: No. I said the joint consultative committee functions as an advisory committee and—

Mr. Haggerty: I see.

Hon. B. Stephenson: —a recommending committee to the Workmen's Compensation Board.

Mr. Haggerty: To the board? Could I have a list of those names and what occupations they hold?

Hon. B. Stephenson: Yes. I don't have it with me—

Mr. Haggerty: What industries are they—

Hon. B. Stephenson: —because I had not anticipated Workmen's Compensation questions tonight but I can get you that list.

Mr. Haggerty: Sometimes it is better that we start this way, then we are sure of getting sufficient time to do some questioning about the Workmen's Compensation Board. Usually in the past it has been only 20 minutes or half an hour or an hour and a half and we kind of rush things through.

Hon. B. Stephenson: It's my understanding that in the past the ministry and the board have made themselves available to discuss Workmen's Compensation. We are certainly very willing to do this at some time in addition to the time spent in examining the estimates of the Ministry of Labour. That's what we did last year and I anticipated that we would do the same sort of thing this year, probably at the end of your examination of estimates in the resources policy field.

Mr. Haggerty: Could the committee have a list of those persons' names and what positions they hold—

Hon. B. Stephenson: No problem. You can have them tomorrow.

Mr. Haggerty: —and the industry or wherever they may be from?

Hon. B. Stephenson: Yes. You may have it tomorrow.

Mr. Haggerty: Is there anybody from labour on that?

Hon. B. Stephenson: Yes.

Mr. Haggerty: How many?

Hon. B. Stephenson: At the moment, there are seven members.

Mr. Armstrong: It's established by an order in council.

Mr. Haggerty: That's right.

Mr. Armstrong: The names of the appointees are set out in the order in council. We can produce the order in council and make it part of the record.

Mr. Haggerty: I believe I asked you a question in June this year concerning the matter of increased Workmen's Compensation benefits. Usually, in the past two or three years, we have had a bill in the House to make amendments to The Workmen's Compensation Act; usually that's the time you bring in an increase. I asked you that question last June and you said that this board or somebody was meeting—

Hon. B. Stephenson: The joint consultative committee? Yes.

Mr. Haggerty: This is right. Are there any recommendations yet that you want to discuss?

Hon. B. Stephenson: I have not seen any recommendations from that committee to the board as yet.

Mr. Haggerty: In other words—

Hon. B. Stephenson: They will be bringing them to me.

Mr. Haggerty: In other words, there will be no increase for injured workers?

Hon. B. Stephenson: I wouldn't say that at all. I have not as yet seen the recommendations which that committee is making to the board which I gather they are going to do within the month of November.

Mr. Haggerty: It's about 16 months now since they had an increase. I was wondering when you are going to be bringing in the amendments and will they be retroactive to June?

Hon. B. Stephenson: That I can't tell you at the moment because I haven't seen—

Mr. Haggerty: You have no policy, no discussions, with the cabinet? I imagine cabinet would have to give approval to it first, wouldn't it?

Hon. B. Stephenson: Yes, because it will require amendments to the Act to do it, as you know.

Mr. Haggerty: I know there were quite a few objections to the cost of the last increase for injured workers in Ontario, particularly from industry. Industries complained that the charges were perhaps above what they should be and gave them some difficulties. I can't quite accept that it cost industry that amount of money because in the long run it's the consumer who pays for it.

If you were to take it, remove it from there, and say we will pay it all out of consolidated revenue, I'm sure there wouldn't be any savings passed on to the consumers in the cost of goods. It would be all profit to the companies. It is like any other insurance. It's usually taxed and there are tax benefits for it. I can't see that industry should be complaining too much about that particular thing as it relates to the number of occupational health problems in the province of Ontario.

It hasn't been that good when you can get a report from the royal commission that dealt with health and safety of workers in the mines—that would include smelters, too, I would imagine; it didn't branch out into that area but it included the smelters. The 117 or so recommendations there didn't give you too healthy a climate in occupational health in the province of Ontario. It tells you you have to clean up and hopefully you are going to pass all the recommendations in that report. I think you will have a good occupational health bill, with the involvement of workers.

[9:15]

Hon. B. Stephenson: We hope to make an adequate start with the bill that was introduced to the House last week. The omnibus bill will deal with all the recommendations of the Ham commission. Whether or not it will include all the recommendations which Dr. Ham has made I can't tell you at this point, but it will most certainly have considered all 117 of them by the time the bill is finalized.

Mr. Haggerty: I think you were speaking down in Missouri on this particular report and the Minister of Natural Resources (Mr. Bernier) was speaking some place in Quebec telling how wonderful things were, but have you ever said it in Ontario?

Hon. B. Stephenson: Yes. I'll say it right here and now, as a matter of fact, our health and safety record is equal to that of any other jurisdiction and better than most, and I will get you the figures to prove that.

Mr. Haggerty: That's hard to believe when you look at the number of persons who have been injured in the province of Ontario through occupational health hazards.

Hon. B. Stephenson: If you compare them with figures in other jurisdictions you will find—

Mr. Haggerty: I am sure we will get into that in more detail when I can tell you the number of instances in my particular area, dealing with the smelting end of mining, and the number of persons who have been afflicted with cancer of the thymus, larynx, lungs. You can go through the whole list of them and I will tell you, it's not too promising.

I regret that the government of Ontario, and I should say the Ministry of Health, and it's under you now, occupational health branch, lost an exceptionally good man, Dr. Mastromatteo, a man who was interested in occupational health. The government has lost him. He has gone to work for the International Nickel Company in Sudbury and hopefully he will make some improvements in that field up there. He's one of the most knowledgeable persons in the field of occupational health, and you've lost him. I don't know what the reason is for it, perhaps the money was there, but I can tell you one thing, in my dialogue with Dr. Mastromatteo, one of the problems was there wasn't a sufficient amount of money given to that particular department to really enforce the regulations.

Hon. B. Stephenson: The occupational health protection branch is not an enforcing branch, as you know. It does have the axe to enforce, it sets the standards and acts as a consulting—

Mr. Haggerty: They have persons out in the field to investigate—

Hon. B. Stephenson: Oh, yes.

Mr. Haggerty: —and that's what I meant when I said enforce; to see that what regulations are there are upheld in industry, but they have always been shorthanded. Hopefully when you get into this field, you are going to have that amount of money, and I think yours is perhaps one of the lowest government ministries of any of them.

Hon. B. Stephenson: We are very thrifty and we spend our money very wisely, we think.

Mr. Haggerty: Hopefully you're going to spend it wisely. I have in the past, as Liberal critic, for a number of years suggested that we should have a cost-of-living formula index to the Workmen's Compensation. I have also said that we should be paying Canada Pension Plan, and there are reasons for that. I can cite a number of cases of persons who have been on Workmen's Compensation for long-term disability, call it

temporary partial disability, for two or three years, finally they are unable to go back to work and one of the very first things that the Workmen's Compensation is saying now to these persons who present claims is to seek Canada Pension Plan benefits.

When you lose three years of contributions to the plan that's quite a loss of income. I am hopeful the ministry and Workmen's Compensation will give consideration to Canada Pension, and not only that, but to include Unemployment Insurance, because often the person has a long-term disability and may go back to work and, of course, the old saying is, to a modified job, and that can't be found in a particular industry. So he loses that position in that industry and is cast upon the street with no source of income whatsoever. He can't collect Unemployment Insurance because he hasn't got the contributions to the benefit period there, and he loses out on that. I suggest that in those two particular categories there should be benefits. Canada Pension and Unemployment Insurance should be picked up by the WCB.

I don't think that person should have to lose that source of income. It is difficult now for a person on Workmen's Compensation to get by. There are some changes needed there. I suggest that you should move from the 75 per cent to the 85 per cent to keep abreast of the times. Surely if a person who is employed by General Motors is laid off and is guaranteed 95 per cent of his wages, we should be able to guarantee somebody who was employed in industry at least 85 per cent.

These are the things I think you should be looking at. I think this is what labour is asking for, more involvement with government decisions. I'm hoping that you will be moving in that direction. In fact, I am sure you are going to have to have to move in that direction sooner or later. If not, you won't be sitting there. That is for sure.

Mr. Mancini: She might not be sitting there anyway.

Mr. Haggerty: Hopefully, you will take this into consideration because there is a problem—

Hon. B. Stephenson: It is being taken into consideration.

Mr. Haggerty: Yes I know, but you mentioned this before about the cost of living. That has been a discussion between the federal government and the province for a number of years. Surely it shouldn't take seven or eight years to move in that direction? You

can give the other employees here within the government agencies in the province of Ontario the cost of living index, so why can't you apply it to the Workmen's Compensation? Surely, they are not that hard up?

Mrs. Campbell: They have other priorities.

Mr. Haggerty: Like building a building that is not suitable for their operations. We could get into that too.

Hon. B. Stephenson: I won't comment on that because—

Mr. Haggerty: Nobody wants to make a comment on that.

Hon. B. Stephenson: —I think it has been proven that it is suitable, but I think this discussion would be much more appropriate at the time that we discuss the Workmen's Compensation Board.

Mr. Haggerty: But you represent the Workmen's Compensation here in the Legislature. Surely there must be some direction from the minister? I thought that you had all the ambition and that we would see new changes in policy for the Ministry of Labour and particularly for the Workmen's Compensation.

Hon. B. Stephenson: We are trying, Mr. Haggerty.

Mr. Haggerty: When it comes to the matter of labour relations, much of that can be done at the bargaining table, but on something like this the bargaining has to be done here for those injured workers. The only recourse they have is through members of the Ontario Legislature. I spend so much time down at the Workmen's Compensation Board I should be on salary there I guess.

There is a problem in this area and we as members bring it to the attention of the Ministry of Labour, to your predecessors over the years, but we seem to be hammering away at deaf ears.

Hon. B. Stephenson: I don't think you can truly say that, because indeed there have been major improvements in the level of benefits granted to Workmen's Compensation in this province over the last several years and I am sure you will be seeing the same thing in the future.

Mr. Haggerty: You say it is one of the better programmes. It may be. The 75 per cent seems great, but if you get a family of six children, there is no benefit there at 75 per cent. The man is losing money.

Hon. B. Stephenson: In some instances I am sure that is so. The fact that the 75 per cent is non-taxable is of some benefit at least.

Mr. Haggerty: If he is a family man, it is a benefit to him, but for a single person or a married couple there is no benefit at the 75 per cent. He is losing money.

Hon. B. Stephenson: All this is being examined at this time and I am sure that you will be hearing more.

Mr. Haggerty: I get tired of hearing that. "Examined at this time"—that has been, since 1968 or 1967, the same old story.

Hon. B. Stephenson: I can't tell you that it is the same old story because I haven't heard it before.

Mr. Haggerty: You should read Hansard and maybe you will change your mind. At times, I think you must read it because that is what we are getting from minister after minister, the same old story. I don't think you can continue with this any more because the workers today are entitled to it. I know there is a big lobby by industry saying, "No, don't give them any more." That is for sure. You can see it through the Chamber of Commerce reports. You can see it through the mining industry reports. They are complaining that the tax on Workmen's Compensation is becoming unbearable and they can't afford it. That is sheer nonsense. Would you take it into consideration, because I tell you, you won't be sitting there too long—

Hon. B. Stephenson: Well, as I have assured you on at least three separate occasions within the last few minutes—

Mr. Haggerty: Yes, two or three occasions—and we haven't got any results.

Hon. B. Stephenson: —it is being taken into account very seriously.

Mr. Haggerty: When can we expect results?

Hon. B. Stephenson: Well, I anticipate that the report from the joint consultative committee will go to the board this month. The board will then report to me and I am sure you will be hearing about it thereafter. I can't give you an exact date.

Mr. Haggerty: It sounds like an election promise. That's all I have at the present time.

Mrs. Campbell: I would like to pursue some of the topics that we have been engaged in. One of the things that interests me in this whole area of injured and disabled workmen and the fact of their lack of employment, is that you probably have in the Conservative Party a person who has made the greatest study of this, whose brother is very active in the field in the United States, one Alvin Hamilton. I don't know whether you have heard of him, but he is indeed a man who has made a study of this whole question.

I am amazed that while he made so many proposals some years ago, no one apparently has taken into consideration what he has had to say and taken advantage of some of the very real thoughtfulness of this man in this field. I suppose one is never a prophet within his own party, but when he ran for the leadership—and I can never remember the year that he ran and Stanfield got it—he made his position so clear that he had done such a study; if there had been any interest at all in improving the situation of these people, one could have had very fertile ground for bringing in some of his suggestions. That is a long time ago.

I notice that we do encourage the employment of the blind with this \$10,000, which I take it can be a flexible figure. When we were questioning the matter of the miscellaneous grants of \$1,000, someone muttered, "It is picayune." Well I would also say the \$10,000 is picayune. But I wonder why we don't have something. If we are so anxious to encourage the re-employment of injured workmen, why don't we have some kind of similar programme but not dissimilar funding to encourage that programme as well?

I have never yet had any great success in getting either the public or private sector interested in re-employing people who have been injured on the job. One of the problems would appear to be tied into the question of the assessments which are made. I don't know where your commitment is, but I really don't read it into this kind of a budget, this kind of programme or this kind of an allocation in one area.

I wonder, Madam Minister, whether as a doctor there is any hope that you might bring to bear some influence in the whole area of definition of disability and the quantitative analysis, which is unfortunately never really qualitative, as to the injuries of injured workmen. I, for the life of me, don't understand how, if a man is injured in in-

dustry and cannot work, he can be 30 per cent or 40 per cent or whatever per cent disabled for the purpose of the calculation. It offends me, and it always has.

[9:30]

I would have hoped that we would have seen at least some suggestion of a move to look at the reality or otherwise of this kind of figure. You know, we have been discussing this matter of the home buyer grant and, brother, they certainly didn't put into place a workmen's compensation formula for that kind of a situation, because this wouldn't have happened. If you look at the way in which you proceed to analyse all of the figures—and a day here and a day there—there isn't any real thrust to improve the overall philosophy.

I suppose it goes to the root of that matter I raised with you quietly one day when I discussed these commercials that offend me every time I see them. They're presented by the safety council, with the co-operation of—I should know it by heart—the Workmen's Compensation Board, and in every damned instance that I see, it's always the worker being told, don't be such a blithering idiot on the job. We never really look at the conditions of employment. In any event, it shouldn't be in any way sponsored by or presented in co-operation with the Workmen's Compensation Board, unless indeed the other side of the coin is shown. It may not be important, but it reflects a philosophical attitude to the individual in our society which I can't accept.

Mr. di Santo: You agree with us.

Mrs. Campbell: Look, I have my own views; and if you agree with me, I am delighted to have them.

This kind of thing simply reflects a total insensitivity to the total picture, as I see it. But I would like to know when the last reassessment was made, and on what basis, by the Workmen's Compensation Board.

Hon. B. Stephenson: Reassessment?

Mrs. Campbell: Reassessment for the employers.

Hon. B. Stephenson: The last one was made last January, and the predictions regarding the levels for the next one have already been submitted to the employers for the year 1977. They have been informed of the rate of increase which will be required of them for the year 1977 and they have some prediction for the year 1978 as well at this point.

Mrs. Campbell: I suppose this is part of the problem of the reassessment being there at a time when you are having a committee review the whole area, as suggested. We have a knack, I suppose, of building in some resistance in advance as we look to consider some further benefits. Is that not so?

Hon. B. Stephenson: The deliberations of the committee began before they were informed about the levels of reassessment for this year, because they began their deliberations in March. The information about reassessments, I think, was not available until July or August or something of that sort.

You made a remark about the commercials and about them being a reflection of philosophy. Although it may not be particularly well done in those commercials which offend you, I think it is an attempt to reflect a philosophy which I hold very strongly; that is, that we will never achieve a high sensitivity regarding safety and maintenance of health in the work place until there is a true commitment on a co-operative basis by the three groups of people who must be involved in this—government, employers and employees—and each individual, whether an employer or an employee, must have a sense of responsibility toward the development of a safe and healthy work place.

Mrs. Campbell: There is no doubt about that, except that the one component in that commercial left out, and the component that I submit to you cannot be left out—

Hon. B. Stephenson: The employer's role.

Mrs. Campbell: —is the employer, and there is nothing to indicate anything to the contrary. One looks at those commercials, and if one has no knowledge whatsoever of what goes on in our society, one has to conclude that if a workman is injured it's because he's a sloppy workman and that he is not taking all the precautions that are available to him. I suggest to you that we have had ample evidence of people being injured as a result of the faulty work place itself, something which the employee had absolutely no control over, and that is not reflected anywhere.

All right, it's small in the sense that the expenditures may not be very much, but it is large when one considers who is responsible for accidents in the work place, and it's not a one-sided picture. You as the Minister of Labour I am sure have far more instances of the faulty work place than I do, and I would think that you would be concerned, because perhaps the time has come when

we could do a little bit of educating of the employer, and of the public, as to the employer's responsibility in this field. That's what I am saying.

Hon. B. Stephenson: I can assure you that one of the major roles of the occupational safety branch of the Ministry of Labour is precisely that, and this is also one of the things which I have been trying to emphasize in various activities around the province.

Mrs. Campbell: I am delighted to hear that that is their role, and I was aware it was. I am delighted to hear that you have been emphasizing it, but it doesn't change a single thing in these kinds of commercials, unless the same people are going to do a series of commercials on the dangers to the worker in conditions which are, or may be, prevalent in any given industry.

Mr. Mancini: It would be interesting to see.

Mrs. Campbell: I only refer to it as a part of the larger problem. I can't stress too strongly my concern about the disabled and their right to work, and I wonder if there is going to be a possibility of a meeting with the Minister of Labour and the Boost group, which I think it's fair to say, has a somewhat different philosophy from the CNIB, and perhaps one should at least balance off the two approaches. It might be then that if you followed along the Boost group philosophy, \$10,000 would not be such a realistic figure. They are very anxious to prove their independence, and as you know they feel that on occasion CNIB has too paternalistic an attitude to them. I wondered if you couldn't call together a meeting of CNIB, Boost and yourself, members of your ministry, to see if there aren't some areas where we could help people to develop the kind of independence they are struggling to do without funding in the community.

There is one other matter that I wonder if the minister has considered, or if there is anything that she can do about it, and that is, it was brought to my attention that people employed in parking lots have a very rough time, quite apart from their salary—the conditions under which they work, the fact that they have to work for long hours and there are no facilities provided for them, the fact that if they leave their parking lot for a very obvious and necessary reason, cars get out of the lot, and lots of them don't have bars, they are responsible in their salary for any cars that they lose. I wonder

if the minister would take a look at that area of employment? It is one of the low-paid areas that really has a lot of additional handicaps.

Hon. B. Stephenson: And hazards obviously. Yes.

Mrs. Campbell: Thank you.

Mr. Williams: There are two areas of concern that I have that would relate to ministerial policy and potential for change, and I hope you could respond to each individually as I come to it.

First, the member for Downsview (Mr. di Santo) expressed some concern a short while ago about the impact of the large corporations on our society and the fact that they do indeed have a substantial influence on our society economically, socially and otherwise. Whether he is talking about the national companies, international, or multinational, I think in expressing those concerns he is really only coming to about one-third of the overall major forces at work in our society that do have a daily effect on society as a whole.

He deals with the multi-national corporations, but in fact there are two other large components in our society that really dictate and control how our society fares, how our economy functions, and that of course is not only the large corporate sector, but that of government and also that of the labour and trade unions. It has to be these three major forces at work that influence our society on a daily and ongoing basis, and it is the individual in our society and the small entrepreneur, the small businessman, the individual, the professional man, the non-unionized people in the labour force who are continually affected, adversely or positively, by the actions of these three major components in our society.

I think government, being one of those big three, has to exercise and in the instance of this province I think has exercised—its responsibilities, and continues to do so. I use as an example the responsible restraint programme that this government has taken the initiative with during the inflationary period which has obviously brought about a stabilizing of that situation.

There is the concern that government has in turn with regard to the individual and collective behaviour of the large corporations because they do have such an impact on our society, they employ so many of our people. I think they still represent the majority of the work force in this country, although the

margin of difference is narrowing between the number of people employed in the public sector as compared to the private sector. But because of the fact they still do employ the majority of people in our country and contribute thereby to the high standards of living we enjoy, it is important that these corporations be responsible citizens in our society.

[9:45]

In fact, to ensure that they are, we as the government, more with our federal counterparts, have from time to time enacted legislation that we felt was necessary and desirable to ensure that corporations do, in fact, behave in a responsible fashion. While the large corporations continue to be the target of a great deal of attack from certain quarters and receive a great deal of publicity about how they behave in society, I think a large majority of corporations, like the trade unions and the labour unions, do behave in a very responsible fashion and thereby make their contribution, not only to their own corporate well-being, but to society as a whole.

With that preamble, I would ask you to consider a matter that I think has, over the years largely been ignored—and this might be an unfair comment, and I ask you to correct it if it is unfair—but I think that a matter that has largely been ignored and which I think one day will come back to haunt us if there is continuing inaction in this area. It is with regard to the responsibility of government to have access to the full operating procedures, financially and otherwise, of the large corporations to ensure that they do behave in a responsible way, not only to their employees but to their shareholders.

By example, when a company is going public or involved in share transactions, they have to make full disclosure of their activities, financial and otherwise to the Ontario Securities Commission for tax reasons and others. They have to file many returns on an on-going basis with the provincial and federal authorities and what concerns me is why there is a singularly noticeable exception made with regard to the labour and trade unions. It appears, in this province in any event, that there has only been a token approach taken to the requirements that the trade or labour unions also make full annual financial disclosure of that activity to the government.

I hasten to say, before I continue, that in putting forward this point it is not with the

idea of it being a punitive concept or anti-union in flavour. This is not so. I am pointing out a discrepancy that exists which was long ago corrected, I think, in one of our sister provinces to which the NDP critic referred earlier as having enlightened labour legislation, the province of British Columbia. I think in that province for many years now they have had legislation which has made it mandatory that the labour unions and trade unions must file annual financial reports.

Mr. di Santo: That is the kind of society in which you would fit beautifully.

Mr. Chairman: Order, please.

Mr. Williams: It seems to me that one of the problems and concerns that the rank and file of people in the labour movement have is that as their unions become bigger, they seem to have less and less accessibility to the senior people in their administration, as you will find in government and as you will find in big business. On more than one occasion, members from the rank and file of a given union have expressed this concern to me; they just don't have really full access to what their union is doing, how they are investing their union dues to earn a fair return on them, as to what the actual financial activity of their union is on an on-going basis.

I will concede, and it is so stated in The Labour Relations Act—I think in section 76 thereabouts—that a union has to provide its membership, if the member asks, for a financial statement. This is so, and there are other provisions, I think under subsection A of that section, if they are taking dues in the way of vacation pay or other benefits, that they have to make some limited financial disclosure of the direction of these funds. But I suggest to you that this is not the same as government having full access to such records as an expression of social concern to ensure on behalf of the rank and file in the labour unions or trade unions, that their financial input into their unions is being properly administered and cared for.

Mr. di Santo: They are trying to protect themselves.

Mr. Chairman: Order, please.

Mr. Williams: Unfortunately, to my knowledge it hasn't occurred yet in Canada, but we're all aware that great publicity has been given to some of the experiences in the United States. In any trade union, company or profession—let's use the legal profession as an example; if one lawyer misappropriates

a client's funds and great publicity is given to it, it tends to blacken the eye of that profession as a whole, and yet we know that 99 per cent of the members of that profession are honest, hard-working people. So too with the trade unions.

We know that the vast majority of the trade unions, like the companies are responsible organizations. Yet there have been one or two instances where misguided members may have gone to the top of the organization, taken it over and, as it has turned out, misappropriated the rank and file's funds that have been invested over the years through union deductions or dues; they have brought about huge losses to these unions—and whether they've ever been recovered, I can't say.

We've had these experiences in the United States, I suggest, largely because there has been no accountability by these unions to society through filings with the public sector. The province of British Columbia recognized this responsibility to the rank and file a number of years ago and made it mandatory, as I stated a moment ago, that the unions do file financial statements so that they are on the public record and so that government can monitor the activities of the unions. I think this makes only good sense, because those are the other two major forces in our society—not only the big corporations, but also the big unions—and I think the rank and file are as entitled to protection, as are employees of companies or any other individual in this society, to see that their affairs are being properly administered.

Again, I hasten to say that it's because of the isolated case, which could turn out to be a small or very large mismanagement situation or, in fact, intended fraud taking place, that I think these protective devices should be provided and that government is the mechanism for providing these protections. If these kinds of things have not occurred, we can give assurance now that they will not occur, if we build the appropriate protection into legislation.

I ask you for your comments on this, Madam Minister, as to why government as a matter of good social responsibility has not seen fit to move to the aid, if you will, of the rank and file in the labour movement to ensure that there is full financial disclosure of the unions as being in the best interests of the labour force in this province. After you have commented on that, I'll go on to the next point.

Hon. B. Stephenson: I think we have made at least one major step in that direction, in the amendments introduced last year, with the requirement that labour unions file annually with the Ministry of Labour an audited accounting of those funds which are either vacation pay funds, benefit funds, pension funds or trusts. This has been carried out fully this year for the first time. I think the bulk of the funds for which the labour union is responsible are deposited in those specific areas. This requirement indeed can provide for each member of the union, upon request, an audited accounting of the expenditure and investment of the majority of the funds which the membership provide to the union for their benefit and for the continuing function of the union.

I think it would be wise, as I suggested with other amendments, to allow this to be examined and evaluated in terms of the kinds of questions which you have raised, and if this procedure seems to be fitting and seems to fulfill the requirements or the needs of the members of the union, I think it would be adequate. If it does not, then I suppose we should consider moving further in that direction.

This year, I think we have had little problem in acquiring the information which was first required by the amendments to the Act in 1975.

Mr. Williams: Madam Minister, do you really feel that the individual rank and file union member has the capacity and the resources to analyse and monitor the financial activities of a union of the size of, say, the UAW, the International Brotherhood of Electrical Workers or one of the really major unions? Do you feel that person really has the capacity as a lay person to understand and appreciate what is being done with these various funds that he's contributing towards as part of his union membership, as contrasted to the capacity of a government to monitor that situation on behalf of that individual but for all the members of that union?

Hon. B. Stephenson: That indeed is what government is doing in terms of the funds which are now required to be examined by government. The government requires unions to provide the statements about the bulk of the funds for which they are responsible on behalf of their membership. I can't tell you whether the average individual is capable of understanding it; with the help of someone else, from time to time I can even understand it—and I think's that's an achievement.

Mr. di Santo: That's insulting.

Interjections.

Mr. Armstrong: Madam Minister, you've spoken about section 76(a), which deals with trust funds having to do with welfare plans and so on. But there was also a further amendment, which affected general funds, under section 76(2), and that amendment, which came into force on July 18, 1975. There has been for some time a requirement that, upon request, the trade union must give to the member the last audited financial statement of its general funds.

Mr. Williams: I'm aware of that.

Mr. Armstrong: The added provision is that when a member complains that the audited financial statement is inadequate, the Labour Relations Board has now been given broad powers to order the rectification of the filing with respect to the general fund.

Mr. Williams: Yes, I'm aware of that.

Mr. Armstrong: That seems to me to be a significant added feature that touches the question that you raised. Let me just add that, in addition to that—and I haven't got the full particulars—there is, of course, the federal statute called The Corporations and Labour Unions Returns Act—

Mr. Williams: Yes, I'm aware of that.

Mr. Armstrong: —which requires some limited financial information to be filed by all trade unions. Again, the obligation of that is automatic and not on the request of the member. So there is a filing under that Act, which applies equally to corporations and trade unions.

Mr. Williams: I appreciate your comments, but I was aware of those improvements that have been made; the minister herself referred to them, so I was fully aware of them.

I'm not satisfied, however, that those filings are as comprehensive and as complete as you would find, say, under the B.C. legislation, which to my knowledge has in no way, shape or form impeded the activities of the labour unions, large or small, in that province. Rather, the very nature of those filings has assured the rank and file as a matter of public record, scrutinized by the public sector and the government, that the rank and file is being protected in every way, shape and form, so that there will hopefully be no misdemeanours conducted by the labour unions.

[10:00]

I will accept your statement that we will watch and see what develops from these amendments that are brought in. As I say, this is a step in the right direction but I think you must concede that it's not complete in the sense of the example I referred to in the British Columbia setting. The full disclosure and filing that I am alluding to are not contained even in these amendments as I understand them. I would suggest that this does certainly warrant monitoring and possibly further expansion upon in the future. I express this concern as a matter of concern for the individual rank and file member of the unions. I feel they should have this protection.

There is a second point I think I will have to speak to in the morning when we continue. I think we are expected in the House, Mr. Chairman.

Mr. Chairman: I am told the vote will take place at 10:05.

Mr. Lawlor: We wait with bated breath for it.

Mr. Williams: I am sure it's bated. I think the matter I want to discuss will take somewhat more than five minutes and, rather than interrupt it at this time, would prefer to start whole on the matter in the morning. If you say we are going in at 10:05, we have only got three minutes, so perhaps we could deal with the other item in the morning.

Mr. Davison: That wouldn't take five minutes.

Mr. Williams: If I could be put back on to continue with the first question in the morning, I would permit someone else—

An hon. member: No way.

Mr. Chairman: The speakers listed are Mr. Davison, Mr. McClellan and Mr. Mancini.

Mr. Williams: I will carry on, Mr. Chairman, with some more preamble that will lead up to my point in the morning so that we don't lose the continuity of what I want to say.

Mr. McClellan: The pattern is becoming very obvious.

Mr. Williams: I appreciate that. Again it is with a great deal of social concern that I bring up this point to relate and contrast our existing labour legislation to what I consider to be the enlightened legislation that exists in British Columbia. Here too this relates not now so much to the financial responsibilities of the trade and labour unions

but to the social responsibility of the trade and labour unions. Particularly in current times the fad has seemed to be that in all sectors of our community—

Interjections.

Mr. Chairman: Order, please.

Mr. Williams: It is very interesting that when the official opposition members come into this committee and speak for great length on issues, they expect and receive the greatest of courtesy from the other members of the committee because we are well aware of the fact that they have genuine concerns to express at these estimate committees. But they have a singularly bad habit of not reciprocating to the other members of the committee. It is in a rather boorish fashion that they display this ignorance so openly that it is regrettable because it really destroys their whole credibility that they behave in such a boorish fashion.

Mr. McClellan: Do you recall the Ministry of Housing's boorishness? You read your own ministers' estimates.

Mr. Williams: And that observation only stirs them on to greater behavioural activity of a rather abominable nature.

Mr. Bounsall: Keep this going for the whole estimates.

Mr. Williams: It may go for a while. What concerns me is that there has been a tendency from all sectors of our society, and unfortunately in some areas it has not escaped the trade union movement either, that people in areas of responsibility, in order to have their particular point of view or concern expressed in the strongest possible fashion to get their point across to society, they have seen fit in recent times to even suggest that the most appropriate ways and means of achieving the objectives that they see are fit and just for their particular interest is to engage in even unlawful activity. I think statements of this nature have been made in recent times even within this province by very noted and prominent responsible people in the trade and labour union movements and, as I say, it simply exemplifies a fad that has been going around, but it is a dangerous fad and it is one that—

Mr. Mancini: Mr. Chairman, may I speak on a point of order? Myself and Mr. Bounsall, the critic for the NDP, have been discussing the time frame and what things we have left to do here in these Labour estimates and we find that if we try to allow

half a day or a whole day for certain things we have left, we just might squeeze in everything. We have a proposed schedule made up and I would like to go over it with the other members of the committee and the minister and if it's suitable we might stick to this time frame, which will give each political party an equal and fair opportunity to discuss everything they want to say within the amount of time that we have until Wednesday. With your permission, I would like to go ahead.

Mr. Chairman: Is that a point of order?

Mr. Mancini: It will take a couple of minutes.

Mr. Chairman: We are supposed to be in the House at 10 after 10 at the latest. Possibly you could bring that up the first thing in the morning.

Mr. Mancini: Yes, I will.

Mr. Chairman: Have you completed your remarks, Mr. Williams?

Mr. Williams: No, I am just beginning, Mr. Chairman.

Mr. McClellan: Speaking to the point of order, Mr. Chairman, I am afraid that it really has to be brought to the attention of the House leaders because it is a recurring pattern in estimates debates and is throwing the schedule profoundly askew. I hope that the minister is aware of just how much a problem we are facing here.

Mr. Mancini: What is that?

Mr. McClellan: The kind of time wasting that seems endemic to the—

Mr. Mancini: Well, I discussed it with Mr. Bounsall, since he's the critic, and we seem to have a programme which meets—

Mr. McClellan: I am supporting you, Mr. Mancini.

Mr. Williams: I think equal time for all parties is admirable.

Mr. McClellan: Including the minister, Mr. Chairman.

Mr. Chairman: We will now adjourn and meet after the question period tomorrow.

The committee adjourned at 10:05 p.m.

CONTENTS

Thursday, November 4, 1976

Ministry administration programme	S-2803
Main office	S-2803
Adjournment	S-2823

SPEAKERS IN THIS ISSUE

Bounsall, E. J. (Windsor-Sandwich NDP)
 Campbell, M. (St. George L)
 Davison, M. (Hamilton Centre NDP)
 di Santo, O. (Downsview NDP)
 Haggerty, R. (Erie L)
 Johnson, J. (Wellington-Dufferin-Peel PC)
 Lawlor, P. D. (Lakeshore NDP)
 Mancini, R. (Essex South L)
 McClellan, R. (Bellwoods NDP)
 Stephenson, Hon. B.; Minister of Labour (York Mills PC)
 Williams, J. (Oriole PC)

Ministry of Labour officials taking part:

Armstrong, T. E., Deputy Minister
 Webster, G. A., Director, Finance Branch



Government
Publications

Legislature of Ontario Debates

SUPPLY COMMITTEE—1

ESTIMATES, MINISTRY OF
LABOUR

OFFICIAL REPORT — DAILY EDITION

Third Session of the 30th Parliament

Friday, November 5, 1976

Speaker: Honourable Russell Daniel Rowe

Clerk: Roderick Lewis, QC

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CONTENTS

A list of the speakers taking part in the debates in this issue of Hansard appears, in alphabetical order, at the back of this issue.

Daily contents of proceedings also appears at the back of this issue. Reference to a cumulative index of previous issues can be obtained by calling the Hansard Reporting Service indexing staff. (Phone 965-2159)

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LEGISLATURE OF ONTARIO

SUPPLY COMMITTEE

FRIDAY, NOVEMBER 5, 1976

The committee met at 11.12 a.m.

ESTIMATES, MINISTRY OF LABOUR (continued)

On vote 2201, ministry administration programme; item 1, main office:

Mr. Bounsall: Mr. Chairman, just before we get into that, could we discuss and get agreement, hopefully, on the time we have remaining and which topics will be discussed in that time?

I would propose that today we finish the administration vote and get a start on industrial relations, if possible; that on Monday, we meet in the afternoon only and finish industrial relations, and that on Tuesday, at the commencement of Tuesday afternoon we start, irrespective of what has happened to industrial relations, the labour services vote.

Mr. Mancini: You have missed the women's programme.

Mr. Bounsall: I'm sorry. On Monday we finish the industrial relations and start and complete the women's programme.

On Tuesday, we start the labour services and we have the afternoon and evening there, and on Wednesday we do the Human Rights Commission and the Labour Relations Board. The one point remaining would be when we sit on Wednesday. There is a certain feeling, and I'm easy on this one, it might be better to sit in the morning, maybe from 9 a.m. until 1 p.m. On the other hand the House is sitting in the afternoon in any event, but the reason for the switch to the morning, with Thursday and Friday being off, is that it might facilitate some of the members of the committee in returning to their ridings.

Mr. Chairman: It does present one problem, Mr. Bounsall. I think the select committee on Highway Safety is sitting Wednesday morning, as well.

Mr. Bounsall: And you, Mr. Chairman, are tied up in that.

Mr. Chairman: Four of us are tied up in that.

Mr. Bounsall: Four of us, yes.

Mr. Chairman: Is that suggestion of Mr. Bounsall's acceptable to the committee?

Mr. Bounsall: I so move, if a motion is required.

Motion agreed to.

Mr. Williams: Mr. Chairman, if I might, for another five or 10 minutes, pursue the second point that I was about to raise last night before I was so rudely interrupted. I discussed with the minister, for a few minutes last evening, the financial aspects of the trade and labour unions and the accountability thereof to government, as is done with companies large and small. I then turned my attention to the fact that it has now become very much a part of life for the unions and their leaders to direct their attention beyond their particular area of collective agreement into some of the more social issues of the day. I think this is good; it's healthy that they are taking a broader interest in matters that are outside their particular ambit and their particular areas of responsibility to their unions and their collective agreements.

[11:15]

But in so doing, in extending themselves in this way, it does on occasion leave those trade unions open to possibilities of embroiling themselves in legal situations, in a give and a take situation. I think of instances, as I talked about last evening, where from a financial point of view unfortunately you find sometimes a bad egg or a bad apple in the basket. It reflects badly on the movement as a whole. There seems to be, I suggest, a responsibility of government to take what steps it deems necessary to ensure that the activities of big business and the big unions are monitored carefully by government in the public interest.

There is a singularly interesting situation that exists with regard to the labour and

trade unions in this respect. I don't know of any other recognized group or organization that is immune from or is deprived of the right of lawsuit, as exists in this jurisdiction. Again, looking back to the British Columbia legislation, it was years ago when they had built into their legislation the right of a union in its own name to either engage in a lawsuit or be subject to lawsuit, if there was any irresponsible behaviour by the representatives of those unions as would be represented by their executive. It seems to me that it might be in the interest of unions to have this right given to them, as well as to ensure that in the isolated instances there would be more responsible expression of views or interests by labour union leaders in speaking truly for their unions on some of these social issues.

I had mentioned last evening that there had been some instances recently of very responsible leaders in the trade union field even suggesting that there be civil disobedience to obtain points or to gain objectives in society. This becomes a rather alarming situation. I would hope it does not become a way of life, that responsible people in our communities are suggesting to the rest of society that we should lose respect for our laws or should behave in a way which puts special-interest groups above the law. I'm sure this won't come to pass, but I think we've been given fair warning on this. Because, however, of those instances having arisen, it gives cause for one to give consideration as to whether or not these legal rights should be given to the unions and made available to the public at large, if the activities of those who represent unions are going to be much broader in their perspective than simply looking after the needs of their rank and file members.

I would invite the minister's comments with regard to the suggestion that perhaps the labour legislation should be looked at with the idea of giving or extending those rights to the trade and labour unions and also giving the right to society as a whole in instances, where deemed necessary, to bring a lawsuit against a corporate entity, such as would be represented by a union, rather than what presently exists under the Act. I realize these rights do pertain under the labour legislation. That's why I stress the fact of activities beyond the collective agreements per se but under the common law area so that people would have a right at the same time to take active action, legal if necessary, against any irresponsible activity of representatives of unions who might over-

extend themselves without really total union endorsement as to point of view in some social activity and involvement.

I would, as you say, invite your comment as to whether it would not be appropriate to consider providing this right to the unions and to society as a whole that exists with all other corporate entities, groups and organizations that normally have these legal rights available to them.

Hon. B. Stephenson: The concept of the trade or labour union as a social institution is one which is totally accepted, of course, within this society, particularly within this province. Because I do not have a legal background I will not presume to justify or even to comment upon the kind of suggestion that you have made. However, it has been discussed within the ministry and I think I should allow those with legal competence to answer the question which you raise.

Mr. Armstrong: Mr. Williams, as you may know, there are many court cases where unions are the plaintiffs or the defendants, but they're not plaintiffs or defendants in their own names. The technique is through what we call a representative action and the rules of the Supreme Court—I can't give you the number of the rule, it doesn't matter anyway—but the rules of the Supreme Court are quite adequate to permit unions to sue and to be sued.

Mr. Williams: Outside of their collective agreements?

Mr. Armstrong: Outside of their collective agreements, so there's a myth abroad that one cannot get at the funds of a trade union in a civil action. Mr. Hess is here, but the books are full of cases in which that's happened; famous cases that have gone to the Supreme Court. So although this item comes up from time to time it's not one that is, in my personal view, of burning significance because of the adequacy of the common law rules about representative actions. What you do is sue the trade union in the names of the responsible officers, and by that technique, if you're successful, you may attach the funds of the union.

Mr. Williams: I just think it's inappropriate that if, for whatever reason, collective action is taken it has to be taken against individual union leaders, because you cannot directly take suit against a union. I think one would frown upon to try to attach in a personal way the assets—

Mr. Armstrong: No, no, I'm sorry, I've given the wrong impression. The representative action is a procedural technique to attach the assets of the union with the responsibility. It's not a personal action against the individuals named. It's a representative action. The proceeds of the judgement come out of the funds of the trade union. I think it's rule 75. I can't remember the exact number but the rule is there in the rules of the Supreme Court. Having been counsel in a number of those cases, I can speak without equivocation on that question.

Mr. Williams: I'm sure you would agree that the right is not clear cut as it is with other legal entities other than individuals or organizations, corporate entities, to bring an action outside of the collective agreement under the terms of The Labour Relations Act *per se*.

Mr. Armstrong: Except for the naming of the defendant—you name the responsible officers rather than the trade union—it's a procedural device which doesn't appear to have caused any problems. It may be to some extent an anachronism of the common law that you have to do it by way of representative action, but in terms of the efficacy of the procedure, I can tell you as a former practising lawyer that there's no problem. Now, you may say if there's no problem, why not cure the affliction—

Mr. Williams: Regularize it in legislation.

Mr. Armstrong: —and have it done, but in terms of practical significance it wouldn't, I think, alter the question of either ability to sue or liability to sue.

Mr. Williams: As far as an action taken by a union against a party or parties—

Mr. Armstrong: The same thing. It has to be taken in the name of A, B or C representing all of the members of a particular union.

Mr. Williams: What is your comment with regard to the way in which it is presented in British Columbia legislation, which is more formalized and clear cut, that for legal purposes they're clearly identified as—

Mr. Armstrong: Right. I haven't had occasion to look at the BC legislation recently, but I think that's true. Not having practised in the province of British Columbia, whether or not it makes litigation any easier, I couldn't say, but having practised in the province of Ontario, I can say that I think

most practitioners on both sides of that partisan fence would agree it hasn't been a procedural problem.

Mr. Williams: Procedurally it may not be, but it creates grey areas because it hasn't been clearly defined and spelled out in legislation and in common law in particular, beyond the areas of The Labour Relations Act. I think it's something that's deserving of consideration and further exploration, because it has been codified and made much clearer in that other jurisdiction. I see no reason why it couldn't be done here to put aside any uncertainty, so the grey areas that I perceive, and I think others perceive—you may have a better appreciation and understanding of it, being so close to it—but I think there are others who would differ with your perception on it as being fairly understandable and clear cut.

Mr. Armstrong: No two lawyers ever agree on anything anyway.

Mr. Williams: Do you have any further comment at this point of time on that observation?

Hon. B. Stephenson: Not on that specific observation. I will be happy to look at the BC Act, and with the assistance of those people with legal competence will attempt to pass a personal judgement about it at any rate. Whether that will lead to any action or not, I'm not prepared to say at this time.

Mr. Williams: Thank you, and I'd appreciate hearing back from you in due course.

Mr. McClellan: I have five reasonably short points that I wanted to raise on this item. Three of them deal with policy, two being simple requests for information, and three of them deal with the Workmen's Compensation Board. I will be going into some detail when the board comes before the committee.

But I had a couple of problems that I really want to raise now. I should preface by saying that I represent Bellwoods riding in Toronto. The vast majority of the people living in my riding work in the construction industry; and there is no single aspect of government at any level that causes more pain and distress and suffering and concern than the policies and practices of the Workmen's Compensation Board. I just relate that to you as an observation after a year in office and after extensive work with constituents around WCB problems. You're going to have to address yourself to some of these prob-

lems, hopefully soon. We will get into detail when the board comes forward.

The three immediately pressing concerns: Firstly, the question of rates. We were profoundly disappointed that you did not bring in legislation in June as we had expected to amend the Act and raise the rates. It has now been 16 months since the last increase. The consumer price index has gone up something in the vicinity of 11 per cent during that period, and it causes real distress. The minister is aware of how inadequate the total range of social assistance programmes are for the disabled, the unemployed. Nobody can live on workmen's compensation. It's usually supplemented by something else, and it's simply inadequate.

It is hard to explain continuing delays in raising the rates, other than that this government is prepared to use disabled workers as pawns in its war against inflation, as pawns in its war to cut back government expenditures, and that's simply unacceptable, utterly unacceptable. I want a simple commitment, a simple answer, from the ministry around whether you intend to bring in an amendment this fall, hopefully this month, to raise the rates.

[11:30]

Secondly, on the question of jobs for injured workers, particularly those with permanent partial disabilities, the minister is aware that it is virtually impossible for construction workers who have suffered a permanent partial disability to return to their occupation in construction. There are virtually no jobs for people who can only do light duty. We discussed this the last time you were before our committee and we had a commitment, I thought, from you to deal seriously with this problem.

Again, this is a problem that causes enormous suffering, particularly in my riding. That's what my knowledge is based on. I have dozens and dozens and dozens of constituents who have suffered permanent partial disabilities. They have been diagnosed as fit only for light duties, and these kinds of jobs simply do not exist, period. They are in the hopeless and helpless position of trying to maintain some kind of life of dignity with a permanent partial disability of 10 or 20 or 25 per cent. These are men who want to work, who are ready to work, who are willing to work and who are desperate to work, but there are no jobs for them. Your rehabilitation programme simply can't accommodate them.

What you have to do is very simple. You have to set aside a certain numbers of jobs in the public sector for these people. You have to do it. Otherwise you are condemning them to a thoroughly miserable existence. Secondly, you should look very seriously at affirmative action. Firms which want to do business with the government of Ontario can legitimately be required to set aside a certain number of positions for handicapped or disabled workers. You have two options that are available to you: firstly, in the public sector and, secondly, in the private sector through affirmative action. Unless you are prepared to do this, the situation is almost hopeless.

It would be very easy to integrate this kind of a programme with the WCB rehabilitation services department, so that people could be assessed, trained and placed within a number of jobs that have in effect, been specially created for them. I ask you, secondly, to give us some kind of progress report since the last time this was raised at the last estimates debate and tell us what kinds of plans that you have to create employment for disabled, injured workers who are desirous of returning to a life of dignity through work.

Thirdly, I want to raise the question of delays and what I can only describe as an administrative catastrophe within the Workmen's Compensation Board. Again, we deal with hundreds and hundreds of constituency cases through our riding office. I say quite sincerely that there is no other government programme, no other government income maintenance programme, at the municipal, federal or provincial level which appears to have so many administrative problems as the Workmen's Compensation Board. The kinds of delays that you get on the most routine inquiries and requests are utterly staggering. Even the Unemployment Insurance Commission is easier to deal with.

Mr. Mancini: Good heavens, don't say that.

Mr. McClellan: I think you know what a condemning statement that is. I've sent you one illustration by mail of a complaint that I registered to the chairman of the Workmen's Compensation Board. It is a case that has now been dragging along for seven months, a relatively routine appeal case, which has been bungled at every stage along the way by the WCB bureaucracy. It simply was sent to you as being illustrative of my own case load in my constituency office.

Summaries of information take an interminable amount of time to get. Medical examinations take three or four months to

obtain. Appeal hearing dates take an enormous amount of time to secure. Routine inquiries into bungled cheque payments result in what can only be described as an unleashing of more chaos within the administration. Files disappear, reappear, go up and down the building on Bloor Street, and it is an administrative quagmire.

Maybe when the board comes before us, we need to start dealing at almost a case level with this operation. It is astounding. You don't have this kind of trouble with the family benefits programme. You don't have this kind of trouble with the GAINS programme. You don't have this kind of trouble with municipal social services. It seems to be a unique kind of thing to the Workmen's Compensation Board and you are going to have to address yourself to it. There are serious administrative deficiencies within that operation and I think you are aware of them. I would like to know what you are planning to do with them.

Those are the three main problems that I wanted to raise—the question of rates, the question of jobs and the question of the administrative competence of the board.

I have two specific requests for information which I will relay to you now. First, I would like to obtain a copy of the chart that is used by the Workmen's Compensation Board in assessing pension rates. I am afraid I don't know what the chart is called. I don't have my copy of the Act here.

Mr. Haggerty: That's the green book.

Mr. McClellan: Second—this is not related to the Workmen's Compensation Board—I have had a series of discussions with the Minister of Government Services (Mrs. Scrivener) around the terms of employment of cleaning staff who are hired by contractors who have been issued the contract by the Ministry of Government Services to clean government office buildings here at Queen's Park. Your ministry provided the Minister of Government Services with a fair wage scale, which is now being incorporated into the bidding process for cleaning contracts which are then tendered. I have repeatedly asked the Minister of Government Services to send me a copy of the fair wage scale which you provided her and she has not done so. I assume now that she does not intend to and I want to ask you if you would be so kind as to provide that fair wage scale to me?

Mr. Mancini: Not just you, everybody here.

Mr. McClellan: Let me make that a blanket request. I want to ask you why the fair wage scale was so low? It was substantially lower than the wage scale which covers the permanent cleaning staff, who are protected by civil service status, who work here in the main building. Some kind of differential was established between those who clean our building, the members' building, and those who clean the office buildings surrounding the Legislative Assembly building. I don't understand that at all, because the fair wage scale that you provided, if I understand it correctly from the comments of the Minister of Government Services, is barely above the minimum wage.

I would like to ask you why you didn't at least use the fair wage scale that is used by the municipality of Metropolitan Toronto, which provides an adequate fair wage scale built into their tendering practices which guarantees a reasonably adequate wage for work performed, not something just barely above the minimum wage and not something that has been subverted by contractors who reduced the working day by a sufficient number of hours to restore the total daily wage to what it was before the fair wage scale went into effect. It is a baffling process.

I would ask you then to provide me with that scale and also to look seriously at the equity of the scale. I don't know how you arrived at it, but in comparison with other rates in the public sector it is grotesquely low. The Minister of Government Services argued that in relation to previous wage scales it was an improvement. That's true because in relation to the industry as a whole, it was an improvement and that is true but you are as well aware as I am that the private cleaning industry is a total disgrace.

It bases its entire operation on the exploitation of immigrant women. It is as simple as that and for you to base the fair wage scale in the public sector on prevailing rates on exploitive and shabby industry which your own ministry, particularly the employment standards branch, can attest is a real disgrace, is really unacceptable. You ought to be looking at the upper end of the scale, not at the lower, when you are establishing a fair wage scale for that particular sector. I would ask you to look again at the rates that are paid by Toronto and to revise your scale upward accordingly.

I don't have any further comments. I would be grateful if I could have a response from the minister, particularly around the

question of Workmen's Compensation Board rate increases.

Hon. B. Stephenson: Had the hon. member been present last evening when this was discussed on at least two occasions, he would have been aware of my answers. However, I will recap very briefly. Indeed, the rates of payment to Workmen's Compensation Board beneficiaries are under study at the moment. They have been referred to the joint consultative committee, so that we might have the benefit of their input into this deliberation. That committee has been examining them. I gather it is going to report to the board this month.

When the board has seen the report, I am sure it will be passing its recommendation on to me. But the appointment of the joint consultative committee and the use of that very worthwhile committee representing a very large segment of the public not directly involved with Workmen's Compensation is an important advance in the deliberations which surround the establishment of rates of remuneration and other board policies. It is a service which we should not in any way denigrate and I have asked them to examine this problem specifically and that is exactly what they are doing. I anticipate I will be hearing from them.

The problem of jobs for the disabled is one with which we have been wrestling. There is, as I mentioned last night, a conference on employment for the handicapped, not simply for the disabled, but for the entire spectrum which is to be held under multi-disciplinary auspices this month. We have been examining those pieces of legislation which come from other jurisdictions regarding quotas for employment of handicapped and have looked at both the advantages and the disadvantages.

There are problems related to this which the Workmen's Compensation Board is attempting to resolve in a very active kind of way. Their vocational rehabilitation programme is one which I think should never be discounted. I think it is one which is not utilized as widely, perhaps, by some workmen as it should be but the intent and the spirit of the vocational rehabilitation programme is such that it could be providing a great deal more service than it possibly is at the moment. The demand for its services is not as great or as widespread as I would anticipate it should be.

Mr. McClellan: I think that relates to the absence of jobs, I really believe that, if there

is a sense of defeat around the exercise right off the bat because of the difficulty in obtaining employment.

Hon. B. Stephenson: There isn't any doubt that the specific industry to which you referred is one in which it is well-nigh impossible to ensure that there will be jobs for people with physical disabilities and the major programme is to provide retraining in other occupations, which is presently being pursued with a good deal of vigour by the vocational rehabilitation branch of the Workmen's Compensation Board. It is one that has to be expanded as well, but I am hopeful that as a result of our deliberations, as a result of the information which we will be able to achieve from other sources, that we may develop a more comprehensive programme than we have right now.

[11:45]

Delays in the board procedures—from the statistical information which I receive on a regular basis now, on a monthly basis from the Workmen's Compensation Board would lead me to believe that more cases are being handled more rapidly than ever before and that this is improving monthly. There will always be cases which are difficult to proceed with because of certain problems over which the board has very little control. As you said, I am sure we will get into a more complete discussion of that at the time that we examine the Workmen's Compensation Board with the members and staff of the board.

There is still difficulty in acquiring the medical certificates without which the board cannot proceed in those cases in which disability is a problem. The numbers of cases which are coming before them are increasing and the numbers which they are proceeding with on a very rapid basis are also increasing. I am encouraged that even the appeal system which last year seemed to be slowing down is speeding up quite dramatically within the last six months.

Mr. McClellan: I hadn't noticed.

Hon. B. Stephenson: In terms of the numbers of cases that are being heard and the judgements rendered, it very definitely has increased. We have supplemented as well the appeal mechanism within the board. I think that this is functioning very well at the present time.

■ I have never seen a copy of the chart that you request. I would like to see one as well. I shall see what I can do about that. I can't

promise you anything because nobody has ever given me one either. I will most certainly take under consideration the request that you made regarding the fair wage scale.

Mr. McClellan: Somehow I believe you can obtain it.

Hon. B. Stephenson: Well, I will try to. I will tell you that I haven't tried before either.

Mr. B. Newman: Or else.

Hon. B. Stephenson: Or else what?

Mr. B. Newman: I'm saying if they don't provide it to you, or else.

Hon. B. Stephenson: I try never to operate on that kind of premise, Mr. Newman, and I think you don't either.

Mr. B. Newman: No.

Hon. B. Stephenson: The basis upon which the fair wage scale was developed for the Ministry of Government Services in the instance which you mention was a median rate from a Labour Canada survey, and that is what was used.

Mr. McClellan: That is precisely my objection.

Hon. B. Stephenson: I will most certainly take under consideration the points of view that you have expressed and your request.

Mr. McClellan: I have no further questions except again to express very deeply a hope that the rate increase studies can proceed quickly and that we can have a decision quickly because every month of delay is another month of severe hardship for real people.

Hon. B. Stephenson: Last night we promised that we would provide for the members of the committee the names of the membership of the joint consultative committee to the Workmen's Compensation Board and we have copies of that list here. There is just one member who is presently considering resigning as a result of the pressure of his increased work. He may have to resign and a replacement may have to be found. That's Mr. Heywood of the Construction Labour Relations Association.

You will notice that the membership of that committee is rather wide-ranging. There are two members specifically from the trades and labour unions area, two from the employers sector, if you like, and one who represents the Social Planning Council of

Canada really, Mr. Hepworth from Ottawa and, in addition, another individual who has been very active as a volunteer in the social area in Toronto. Dr. Mastromatteo is also a member of that committee.

Mr. Haggerty: Will there be any changes made in Dr. Mastromatteo's appointment?

Hon. B. Stephenson: No, he is remaining as a member of the committee to my knowledge. He wondered when he first changed his employment whether it would be appropriate for him to continue or not. I think he has been persuaded that it would be appropriate for him to continue.

Mr. Haggerty: I was just questioning it. He is representing the Minister of Health (Mr. F. S. Miller) in this particular instance.

Hon. B. Stephenson: No, he is not representing the Minister of Health. He was appointed to that board to represent a knowledgeable physician's point of view. He is a physician who has had particular experience and a good deal of insight into the problems not only of injury but health in the industrial area. That was the reason for his appointment. He was not representing anyone when he was appointed to this board except that specific expert knowledge.

Mr. McClellan: It is still the business of the Legislature to raise the rates, so it is legitimate for us to ask that the process be completed quickly.

Hon. B. Stephenson: I have no question about the legitimacy of your request, none whatever.

Mr. B. Newman: Mr. Chairman, I wanted to bring up a problem that was brought to my attention this morning—and I don't think for one minute that it is localized; I think it is fairly widespread throughout the province—and that is in relation to the construction industry where individuals are hired on as subcontractors and as a result of being subcontractors have no benefits that a normal employee would be able to obtain. They are working for a contractor. After the completion of the job, or if the contractor doesn't like the individual, he just lays him off, says he is no longer working here, and as a result the individual has no medical benefits, he has no unemployment insurance and he has to pay his own income tax.

Is there some answer to this problem? The individual is really not a subcontractor. He is, to all intents and purposes, an employee of some construction firm. How do you re-

solve that problem so that the individual is actually protected?

Hon. B. Stephenson: The Employment Standards Act, of course, is devised and established to protect the role of the workman in an unorganized work place. You are talking about an area in which the individual is not represented by a trade union, obviously.

Mr. B. Newman: The individual would be represented by a trade union, but because he is a subcontractor he is not a member of the trade union.

Mr. McClellan: The question is, is he covered by The Employment Standards Act if he is a subcontractor?

Hon. B. Stephenson: If he is hired as an employee, yes.

Mr. B. Newman: But he isn't.

Hon. B. Stephenson: Could we have the chapter and verse of this kind of practice, because I personally have not heard of it and I would like to have the opportunity of looking at it?

Mr. B. Newman: I think your officials know of the practice going on. I would assume so, because it's going on in my own community. I don't think it's an isolated incident at all.

Mr. Armstrong: If I might, I think I know of the type of situation you are talking about where, for example, a drywall applicator will be hired by a contractor on a so-called contract basis and unless the drywall operator claims he is, in fact, an employee and entitled to the benefits of the existing collective agreement, then he is beyond the ambit of the collective agreement.

A lot of these relationships are called independent contractor relationships only because the persons being engaged acquiesce in it. But there are cases before the Labour Relations Board where the workman so engaged has complained, or the trade union on his behalf has complained, and asked that he be brought within the scope of the collective agreement and some have succeeded.

There is no magic in words. You've got to figure out what the relationship is really all about. I know the problem you are talking about and I think the solution lies in the hands of the person being engaged either to accept the deal that is offered to him or say, "Look, I'm an employee entitled to the benefits of the collective agreement." If he does so and the contractor still doesn't agree, he

is entitled to utilize The Labour Relations Act.

I am aware of the kind of situation and I think there is a potential for exploitation if the workman does not avail himself of the rights which are available in law.

Mr. Mackenzie: The exploitation is going on in that area, there's no question about it.

Mr. B. Newman: The party told me plasterers and lathers are also involved in the same type of thing.

Mr. Armstrong: That is one of the fields; the practice is prevalent in that field.

Mr. B. Newman: So, to be specific, what should I tell the individual who complained to me about this?

Mr. Armstrong: If I were to tell you to look at one drywall case of the Labour Relations Board, he would probably say that was a bad piece of information because he is not, perhaps, capable of understanding it, but there is jurisprudence that protects people like that and I'd be pleased to send you a copy of that decision where the board has dealt with the problem.

Mr. B. Newman: Okay.

Mr. Armstrong: It is a legal problem and I appreciate these people are not often in a position to obtain legal assistance and I'll certainly send you a copy of the case and some explanation of the problem.

Mr. B. Newman: Thank you, sir. I was going to bring other items but I think workmen's compensation is going to come as an individual day later on and so we can discuss those issues at that time. I'll yield the floor to whoever wants to follow.

Mr. Germa: I have three points I am going to raise. One is to correct the record, to which I think no response is required. The other two points, having to do with the minister's attitude and ministerial policy, I would hope deserve a response.

The member for Oriole—and I should probably be thankful that he was so concerned about union members' dues being properly looked after by the various trade unions—I think left an impression on the record that we who pay trade union dues are really not capable of looking after our affairs and ensuring that our officers are not ripping us off, absconding with the funds and making unwise investments. He made various wide allegations which I think leaves a

strong impression on the record and I should like to correct that.

Firstly, I should say that I have been paying union dues for probably 35 years. I belong to the biggest local, not only in Canada, but on the North American continent, that is the local at the International Nickel Company in Sudbury. I have not resented paying my union dues and I do not know that in 35 years even one cent has been misappropriated by my officers.

He also made suggestions that there should be disclosure, a revelation of finances, and I suppose I shouldn't expect him to know; I understand he has never been, and probably never will be a member of a trade union and probably is not aware of how a trade union functions, nor when you get inside the union halls exactly what goes on.

As evidence to counteract his allegations that there is not accountability in the trade unions, I just happened to pick up in my office last night a copy of a trade paper which is circulated by my union in the quantity of 25,000 every month in the district of Sudbury. It is the April, 1976, copy but that doesn't mean anything because they all have the same format, and on the back page, every month, in this local, is the entire financial statement of my trade union.

I can just recite a couple of the items—I can't give you all of them, but I know, for instance, that the dues collected in April, 1976, were \$89,419.05. I, as a member of that union, know exactly how that figure was arrived at. We each contribute two hours of basic pay, and all I have to do is to refer to the number of members in the local and I can very easily arrive at the conclusion, through a very simple calculation, that that figure is correct. So there is accountability. I go through the various other revenues generated as a result of the union. The hall rental, for instance, was \$3,422.55. Even incidental items like that are reported. So the revenues generated with bank balances for the month of April, were \$683,869.33.

Then I go through the expenditure side of the financial statement and all of our affiliation dues. Our audit committee expenses, for instance, were \$385.62. The general grievance committee expenses were \$568.53. I come to the bottom-line figure. To be accounted for is \$683,869.33, which equals the revenue side.

[12:00]

The books for the month of April balance, and every member of the local not only can question this financial statement at the

monthly meeting, but every member of the local is given that financial statement. I don't know any corporation in the world that divulges that kind of information to its shareholders. The trade union is a democratically-controlled organization and for the member for Oriole to cast aspersions as he did last night and put such trash on the record just cannot go without rebuttal.

Mr. Williams: Another example of gross distortion of comment that isn't worthy of rebuttal.

Mr. Germa: I said I didn't expect there would be any response to it. I didn't respond to you last night even though I was aggravated. I let you continue on your silly way and completely bury yourself.

Mr. Williams: It's typical behaviour of the NDP caucus. Typical behaviour.

Mr. Germa: The second item: The attitude of this minister; there is a great credibility gap. You can stand—and you have done it—and say you have compassion for the working class, you are going to look after their health and safety, you have the best workmen's compensation scheme in the world, and you have the best health and safety programme in the world. Saying so doesn't mean it is so. Certainly you can stand in the House and say that, and your trained sheep behind you will wallop their benches, but that doesn't make it so, because the public utterances of this minister are such that it erodes your credibility that you really have compassion and concern for the working class.

The great furore which has been raging for the past seven years over occupational health and safety, particularly in the mining field, has generated a lot of hard feelings and yet the minister didn't appreciate that because it was the critics on the opposition side and the critics outside in the public who paved the way for you to bring in that legislation that you have on the order paper right now as it relates to health and safety. Yet those were the people who, over the past six or seven years, have paved the road and moulded public attitudes so that you had enough nerve to bring in such legislation and I think you have to admit that. Yet, rather than thanking these people for what they have done, the work they have done on it, I see the minister making ridiculous public statements. The latest one was September 13, 1976, when you said in a speech to the ladies' luncheon at the Western Fair in—

Mr. Haggerty: London.

Mr. Germa: —I don't know where it was—London. I am quoting:

"To partisan critics who with crocodile tears and counterfeit righteous indignation waxed dramatically eloquent—who mislead, misquote, misinterpret the facts—I say, act responsibly."

Crocodile tears—and I know who you were referring to. I understand you were challenged at that meeting and you named the man that you were talking about. You were talking about Stephen Lewis, who led the way in piling up these bodies around you, so that you could count them, so that you would have enough nerve to bring in legislation. The bodies from Elliot Lake, the bodies from the sinter plant in Copper Cliff, the bodies from asbestos plants. He wasn't crying crocodile tears, he is genuinely interested in the welfare of the working class and yet you chose to attack him publicly in such a fashion. I say that's incorrect.

Another item, another public utterance by the minister. The trade unions certainly have made a lot of noise about occupational health. They were also part of the group who paved the way and brought to public attention the carnage that was going on in the work place, particularly in the mines and the smelters of northern Ontario. Yet you choose to attack the trade union movement, and I brought this to your attention before and I didn't get a satisfactory response, and I quote:

"There are, however, some unions who profess concern about the safety of their members but who raise safety issues with management only as a lever to get bigger wage increases."

You didn't answer that properly, to my satisfaction, when I raised it with you in the House.

Mr. Haggerty: November 24, 1975.

Mr. Germa: Yes. Mr. Chairman, as I noted earlier, I've been in the mines and smelters in northern Ontario for 42 years. I've seen the carnage, I've counted the bodies, I've walked in the blood that your ministry has allowed to happen. My union has helped me and it didn't help me and bring this to your attention and to public attention so that it could squeeze more bucks out of the company on my behalf. That wasn't the purpose. We don't want health and safety on the bargaining table at all, but because your ministry was delinquent in protecting our

health and welfare we had to put that on the bargaining table.

There should not be anything such as health and safety on the bargaining table. That is your responsibility, the responsibility of the Minister of Labour; you have abdicated your responsibility and forced the trade union to put something on the bargaining table that shouldn't be there. We should be talking only about wages at the bargaining table, and you should be dealing with the corporations to ensure that because we go to work in these environments we don't end up with silicosis and lung cancer and broken heads because of ministerial irresponsibility and flagrant disregard in the work place.

The third point I want to make is the deterrents which I think should be in place to control industry in the indiscriminate waste of people's lives. I have here a copy of Business Week, March 29, 1976, and it has to do with world affairs. As the minister has so often said, "We have the best in the world. We have the best of everything." Let me just read a couple of paragraphs from this news story:

"David Mandel, the 57-year-old president of Société de Peinture et de Reconstruction, a Paris-based building company, was charged this week with involuntary homicide. His alleged crime: managing a company responsible for a work site on which two labourers were killed last November.

"Mandel's case is the latest of a rash of indictments in France and Britain in which top executives are being held legally liable—and sometimes are going to jail—for on-the-job accidents at their facilities.

"In Britain, a new Health and Safety Act has just given inspectors the power to hale accused managers into Crown courts, the lowest level of courts empowered to impose prison terms.

"In a highly publicized case last October, Jean Chapron, manager of an asphalt plant belonging to the state-owned Charbonnages de France, was arrested and jailed for two days following an investigation into the death of a worker who was crushed to death between two railroad cars.

"A month later, the manager of a building company was held in jail at Moulins, 185 miles south of Paris, during the investigation of another fatal accident. Since then there have been at least three similar instances in which managers were put behind bars for a day or two.

"In Britain, the new emphasis on managerial responsibility has so far been felt by

three top officials of the National Coal Board's mine at Houghton Main in Yorkshire, where five workers were killed in an explosion last June. The three managers are accused of failing to see that proper safety precautions were carried out. They were due to go on trial this week."

I ask you, where does this minister stand as far as criminal liability is concerned as it relates to the managers in our corporations in Ontario? Why isn't the Ontario president of the International Nickel Company in jail right now as a result of those three deaths on the 600 level at Frood mine? If there ever was a flagrant case of dereliction of duty, it was those three deaths within a hundred yards at different times. It was a continuance of the hazard within a three-month period within a hundred yards, and men were forced to go in there by their managers. They lost their lives. Their widows are living on the miserable compensation that they are receiving from the compensation board. Yet the man responsible, the president of the company faced no criminal charges.

I can't understand how you stand there in public and tell me that you are out there leading the world in legislation and compassion in looking after the workplace, when we have evidence here that in France and Great Britain they are far ahead as far as legal liability is concerned. I'd like your attitude and your response. What is this government doing about policing liability on these managers? We have jail sentences for other criminal acts. I understand a jail sentence is a deterrent.

I think if you ever put one of these presidents in jail for a month, it would be a great deterrent to the rest of these corporate presidents who are going around this province absolutely immune. They don't have to account for their actions as they relate to the workplace. As long as that continues, you can pass all the laws in the world but unless you apply a deterrent, then nothing is going to happen. I suggest to you that the \$200 fine to a corporation like International Nickel Company is no deterrent at all, because that is a tax write-off. That is an expense of doing business. It will end up that the taxpayers are going to pay the fine. I'd like a response to the two questions.

Hon. B. Stephenson: I am very pleased to hear that the hon. member and I share at least one point of view, that is, that the appropriate place for discussions about health and safety is not the bargaining table. I have felt that for a very long period of time and

have been making that statement much more frequently and much more loudly than any other that I have made. I do believe very strongly that this is not the place for any partisanship. It is a place in which we require the co-operation of all of the people involved. I appreciate tremendously the work of those specific trade unions which have been involved in being concerned about health and safety.

Unfortunately, it does not apply to all, nor does the kind of statement that you made about employers apply to all employers. There are very responsible employers in the province of Ontario who have done an excellent job in fostering occupational health and safety and will co-operate with us freely and with conviction in developing the kind of legislation which is necessary, but legislation is not the only answer. Legislation is necessary, but it is not the only answer. The only way that we can really achieve what we are all hoping to achieve is to develop a real spirit of co-operation, not confrontation, not snide remarks or difficulties raised in the way of developing the kinds of programmes that need to be developed.

Really what I am asking for, I suppose, is your co-operation, Mr. Germa, the co-operation of the entire caucus of the official opposition and the caucus of the Liberal Party in this government, in this Legislature, because that is the kind of action we need. We need concerted effort with some dedication on the part of all people to develop both legislation and programmes and the spirit of co-operative consultation which is going to assist us in solving the problems that need to be solved.

I am not going to make any apologies for the past because the knowledge of the past was inadequate to deal as effectively as we can deal today. We will not do as well today as we will 50 years from now because our knowledge is imperfect as well. But at least we can begin to attack the problem properly and can begin to work together to attack the problem properly and grow with the increased knowledge which we acquire during the years.

Mr. Germa: I would ask the minister to respond to my second observation as it relates to criminal liability to managers of plants and to presidents of these corporations.

[12:15]

Hon. B. Stephenson: The moral responsibility has to be assumed by the employers in situations in which there is flagrant dis-

regard of enforceable standards. If that does happen, I would be sympathetic to the kind of action which is apparently being taken in Great Britain. My legally competent confrères, both within the ministry and outside, might have some feelings about this, but I would agree with your obvious concern that indeed these people should have to accept the penalties which total disregard of standards that have been set—and have been set in law—should accrue.

Mr. Germa: Right at the present time there is no legislation which would empower you to hale the Ontario president of International Nickel Company into court. I don't mind naming people, whereas you make a wide brush and condemn trade unions and when I asked you to name them, you would not name them.

Hon. B. Stephenson: I did not condemn trade unions generally and you are very well aware of that. Historically, there are instances in which this has happened and I am sure you are as well aware of them as I am, but you are exactly right, I do not have that power at this time and as I said, I have some sympathy for the position which you express and for the legislation which has been passed in Great Britain and in France.

Mr. Germa: Well, could I next ask, is your ministry thinking about or talking about or formulating legislation to grant yourself those powers?

Hon. B. Stephenson: At this point in time, I would have to quite honestly tell you no. We are in the process of developing an omnibus bill and I anticipate that this could quite easily be a part of that.

Mr. Germa: I would hope that you would take it up with your legal advisers and determine what has to be done so that action can be taken. I strongly believe that jail is a very strong deterrent because corporate fines are not a deterrent. It is the cost of doing business.

Hon. B. Stephenson: There are sociologists who disagree with you and we have heard from many of them over the past couple of years, but that is a point of view which should be considered. Can you explain—

Mr. Armstrong: I am not the resident expert on The Industrial Safety Act—Mr. Hess is here—but there are provisions that deal with employer responsibilities in the Act; there are many of them and the penalty section of the Act—I am looking now at The Industrial Safety Act, section 36—provides

for a maximum penalty of not more than \$10,000 or imprisonment for a term of not more than 12 months. The question of the imposition of penalties is something for the courts and it is not for the ministry to deal with that. I know that issue has arisen before in the debates but I make the two points that there are employer obligations expressed as employer obligations, as opposed to supervisory obligations. There are some narrower obligations, for example under section 26, that apply only to those persons who have particular authority over a particular person, but there are broader employer obligations, the contravention of which is punishable, subject to the maximums to which I referred.

Mr. Germa: I am not aware in my long history in the work place of any managerial type spending even five minutes in jail as a result of the multiple deaths we had in Ontario in one year. The ministry has not been vigorous. If the powers as enunciated there are in place, we need some vigour in the ministry to pursue these things. I haven't even seen the attitude that you are really on the side of the working class. I know you are going to have to put some of your friends in jail that you meet in the golf club on Saturday night, but it is a very difficult thing to do.

Hon. B. Stephenson: Since I don't play golf I have no problem in that direction.

Mr. Williams: Still fighting the class wars.

Mr. Germa: The class war is still here. Make no mistake about it. You try in International Nickel Company for 40 years and you will learn.

Hon. B. Stephenson: We have a work force in this province which is extremely well informed. It has received the benefits of a good educational programme. It is not a subclass, Mr. Germa; it is on a par with any group within this society.

Mr. Germa: Except financially.

Hon. B. Stephenson: Financially, they are not doing too badly either.

As far as their intelligence and their integrity are concerned, they don't have any superiors, and I refuse to accept the fact that there is any classification of people.

Mr. Germa: I just looked at the latest figures regarding distribution of wealth between the top 20 per cent of society and the bottom 20 per cent of society, and even

despite the tremendous efforts of all the trade unions in Canada, we haven't changed that distribution of wealth one percentage point in the past 20 years. That's where the class struggle is right now.

Hon. B. Stephenson: You have done really very well for the group in between, and we have had some communications with Mr. Archer about other activities which we might be able to undertake jointly on behalf of at least a portion of that group in the lower 20 per cent, if you wish to have that kind of stratification delineated.

Mr. Germa: That's how our figures come out. I happen to have belonged to the bottom 20 per cent for all of my life, as have my father before me and my grandfather before him, and we haven't moved one percentage point in 20 years. I think that is mainly because the Ministry of Labour has not encouraged or allowed the trade unions to flex their muscles in terms of all the restrictions placed upon certification and the legal mumbo-jumbo that is required to function.

Hon. B. Stephenson: I would understand your concern about the minor organizational requirements which are established for trade unions in the province of Ontario, but it seems to me that the Act has been developed over the years by knowledgeable people with a real concern for trade unions, to permit them the flexibility to develop and to facilitate their development. There is no real impediment that I can see. There are what appear to some people to be apparent impediments, which we are examining carefully at this time. The Act, I think, however, is of help to those individuals within our society who wish to organize themselves collectively.

Mr. Reed: Madam Minister, you are probably aware that in my own particular riding a plant owned by Domtar is scheduled to close in the month of February, throwing 176 employees out of work. It is a particularly distressing situation, partly because the paper industry in my riding has been a foundation industry, if you like, and that there are two such plants, one owned by a competitive company and one owned by Domtar. The reasons given for closure really revolve around productivity and the ability to compete with the American producer and so on. It doesn't augur well for the competitor who is left still operating, and I am very concerned about the situation.

I know that the Ministry of Labour does have a role to play when these situations occur in communities, and I wonder if you could explain and put on the record just what functions the Ministry of Labour performs to see that the employees get the best possible shake in terms of their severance, their retraining, the job opportunities that will be available to them and the priorities they will be given for a change in employment.

Hon. B. Stephenson: Mr. Chairman, I am aware of the situation in Georgetown. I have been informed of the reasons for the decision taken by the company. I am informed that a number of employees there will be given the opportunity to move to the plant which is to take over their production role, which the plant in Georgetown has fulfilled through the years. The Ministry of Labour becomes involved when any such action is contemplated. We are notified in all instances—I can't think of any that we haven't been notified about in the past year—so that indeed our employment adjustment service can go into action.

It is necessary to ensure that the requirements of The Employment Standards Act or of the collective agreement are, in fact, being met and, in addition to that, the ministry assists the company, the employees and the employers, in the development of an agreement with Canada Manpower, in a consultative role, which goes into the plant on an individual basis to discuss with each employee the employment potential of that employee and tries to assist in actually putting that employee in touch with a job which might be available to him. This is an ongoing role which seems to be functioning particularly well. There is a committee which is established, made up of a chairman from Canada Manpower usually—or appointed by Canada Manpower or agreed to by Canada Manpower and the Ministry of Labour—and members of the employees' group and some membership by the employer as well, and this group works really diligently on behalf of the employees to ensure that indeed there will be some provision for finding other employment for them.

Mr. Reed: As you are probably aware then, seeing as you are familiar with the situation, the alternative employment in this case is some hundreds of miles—

Hon. B. Stephenson: In Cornwall?

Mr. Reed: Yes. In other words, in this particular situation, in order for those em-

ployees to move requires a pulling up of roots that are down for generations in this case in this particular plant. It would, therefore, probably be highly unlikely that these men who are skilled in a pretty highly skilled operation would undertake to move, and it means that a good many of them will be candidates for retraining. Their wage rate, in comparing industrial wages in that area, was high, was good, and they are going to have perhaps some difficulty in attaining the same or a similar kind of wage rate in other areas. I just wanted to make you aware of this and aware of the depth of the upheaval that will occur. It is not the kind of industry that employs transient work and so on. People don't come and go. There is a solid core there that is going to be deeply affected.

Hon. B. Stephenson: I well recognize this and I am sure that the employment adjustment service within our ministry is aware of it, and the committee itself will be taking all of these factors into account. This is a particularly distressing termination of function within that industry.

Mr. Reed: Yes, for more than one reason too. Thank you.

Mr. Mackenzie: I just have one or two very brief comments under this first section, and to some extent I guess it comes out of a pretty long association with unions, and particularly the steel workers and the auto workers, with whom I spent most of my life except for a very brief period on the lakes. One of the problems you have is a bit of a credibility one and I am hoping for some real initiative from the ministry and some real actions.

I suppose I am directing my comments more to what I know about the organized workers. I think the same things may very well apply to the unorganized, but in terms of organized workers I haven't found that the Ministry of Labour in this province is looked upon by any activists at any level as really their ombudsman if you like, or their champion or their friend.

[12:30]

Others may not agree, but I have found from the local steward and local union officer right up through staff level, in dealing with a good many local unions and a good many individualists, that the Labour Relations Board is not somebody that really we can count on to help us. That's an attitude held not just by staff. Back in the days when I was operating as a steward and then a

committee man, right back to the Ford plant, it was looked upon as a government agency that sets some rules but, as sure as blazes, was not going to take any initiative in helping working people with the problems they've got. Whether you think it's completely fair or not, it's a pretty widely held view by most active trade unionists. I think it's led to some of the problems and some of the confrontations that we've had.

I can tell you also that a section such as Mr. Armstrong read about the potential of fines or imprisonment is considered a joke by those that are active because they also have never seen it used. There have been some cases. Mr. Germa did use an example. I can think of another one also in the same Frood mine where a damn good friend of mine refused to do a job and was sent home. This was some two or three years back. He was Mr. Size, I think you know the one I'm talking about. The replacement that went in was dead less than an hour later. He went to work on the particular rock face where Mr. Size had refused to work. If there are not going to be charges laid, you might as well not have the section in the Act.

The attitude is just as I said; it's a bit of a joke that it is in the Act. They don't see any attempt to enforce it. The attitude or the feeling is that, other than possibly the construction industry, most of the companies are too big. When you're thinking of Ford, when you're thinking of Stelco, when you're thinking of International Harvester or when you're thinking of General Motors or Inco, there is no way somebody is going to try to send one of the top officials in one of those companies to jail or give him a pretty hefty fine or slap on the wrist.

That's just one of the many little things, recognized more so by the activist than by some of the others, but it leads to disrespect for the board and the job it could be doing on behalf of working people. I wouldn't necessarily agree that it's quite as classified as my colleague, Mr. Germa, might, but there very definitely still is a worker group in this country, and that is in effect a classification.

The other thing is in the health and safety field. What bothers me is that unions are into it in collective bargaining and I agree with the position, that you apparently agree with and Mr. Germa has, that it's not an area that should be in collective bargaining. I don't happen to think vacations or pensions are either. But I'm probably reaching for the moon in those particular areas. I can tell you, though, that unions are into it because they are forced into it. The company can be one

of the best companies going. I could take the companies in Hamilton and list them probably in three classes: those that are damn good companies, those that we can get to do something with a real effort and those we're fighting every day of the week on just about every issue when it comes to industrial safety in that particular plant.

Even the best of them don't move until you've built up a pretty good case or gone through a good number of grievances and finally established the point that you've got enough squawk on it, that enough guys have complained over it for enough years that you can then put it on the bargaining table with some chance of getting it. I think it may be possible, though not in the terms of reference that you put, that sometimes safety measures have been traded off for wages.

One of the hardest things to get out of companies until very recently was major changes in the terms of safety legislation or the rights of workers. Certainly they fought right down to the bitter end on any right of a worker to refuse an unsafe job, which should have been there. There are several cases I know, both in the Stelco plant and in the mines up in Sudbury. On occasion, because you've finally got to go to the membership with a recommendation—and some won't be as interested in safety as others—you'll get a recommendation to take a slight improvement in your pension or an extra nickel or a change in the incentive or something, rather than some safety measures you really would have liked to have had.

The point I'm making is that we've had to fight every step of the way. We have been forced to get into collective bargaining and, quite often, the companies put a price on it and try to put it in the package—that's always a real problem in collective bargaining—when it really shouldn't be the field that the trade unions are working in. They're doing it simply because, up until now at least, this government simply hasn't been willing to be really tough. I don't think anybody can argue that. I'm inclined to agree with Mr. Germa's statement. In fact, I know, I don't just agree. It's part of my union, the fight we had over Elliot Lake and over the mines. It's still really going on or just starting, if you like, in the coke ovens on the furnaces now.

I think the unions involved in particular, and the handful of NDP members that have made it an issue, have done as much as anybody else to force these issues. It's pretty hard, whether you like the political facts or not, really to argue with it. I'm not saying others haven't been concerned but being will-

ing to stick their necks out, make that a fight and really bring it to public attention is what's happened on these issues.

If we're taking a look at the whole area of where we are going in collective bargaining—is it going to remain a confrontation situation?—I don't think you're going to move off that completely for a period of time, but I would suggest to you—and I do it with almost a little trembling because I'm a brand new member—all people are different.

Hon. B. Stephenson: You're not alone.

Mr. Mackenzie: I think I know some of my weaknesses and shortcomings too, but I want to tell you very frankly that it has probably got to start. You're asking us for co-operation on these issues and we want achievements on these issues, so I think there's a willingness to co-operate within our caucus and, I suspect, within the other caucus too. But I'll tell you the feeling in my caucus—and I heard it from some members of the opposition caucus already—is that the minister's attitude in answering questions—I have felt it personally, rightly or wrongly, but it's a generally held view too—is that we're not sure whether she's trying to be flip on occasion, whether she's trying to evade some of the issues or whether the position she's got as minister makes her a little arrogant; those are the words that are bandied about.

But there is not a feeling this early in the game that it's necessarily a very even exchange or very friendly or co-operative exchange. Rightly or wrongly, the attitude is already beginning to develop that we've got somebody over there whom we're going to be fighting with, not sitting down and co-operating with. I say in all honesty and sincerity that it's also going to have to start with the top of the department, whether others agree with the position I put or not. But it's already there to some extent in the House.

I'm not sure how much that counts; I'm just making a point that if we are going to change, or if there is any intent to change the whole attitude or feeling of how the board is looked at and seen by working people, my bias is to say very clearly that the Ministry of Labour should be an arm of or an assistant to, or a friend of, not just the unions, but the working people generally. Obviously the unions are organized to have a little more clout. That's not the way it is seen, unfortunately, right now. If we're going to change it, it probably starts right at the top, and I would like to put on record as a feeling that is there and I think has some validity. I'm not trying to be nasty, I'm trying to be very fair.

Hon. B. Stephenson: I would apologize if the tone of voice that I use or my mannerisms would make you believe that I'm being either flip or glib. I have made an honest attempt to answer all questions as factually as I possibly could, and if that sounds flip and glib, then I apologize for that because I have no intention of being either. I believe firmly, as I've stated on many occasions, that the Ministry of Labour has a responsibility for everyone who works in this province. Your classification of workers and mine may not be exactly the same. However, I do believe we have that kind of responsibility.

In the occupational health and safety field, I think we should be grateful to all of those people who have worked diligently in the past to improve the situation and to make everyone aware of the situation. You are absolutely right, it is not limited to one group or to one political party or to one specific organization within society. A very large number of people have been working diligently in this area.

What I really am saying is that it's time to put behind us all of the antagonisms and disturbances which have developed over the years and to start thinking about how we can move together to solve the problems. I don't think we're going to build anything if we build it on the basis of old confrontations and old wounds. All we're going to do is erode whatever activity, productive activity, we might be able to involve ourselves in at this time.

Mr. Mackenzie: That's why I asked for the initiative in leadership, because there's not yet a trust that that will happen, whether you like it or not.

Hon. B. Stephenson: I'm sure that's entirely so. One does not begin to trust people that one isn't very sure about or hasn't known for very long. I suffer from the same problem that you have—I haven't been around here that long. I'm sorry that my short period here has obviously eroded whatever trust there was in the beginning, if there was any. I doubt very much that there was any, because there was certainly a great deal of scepticism expressed both in the House and outside the House by your leader and various members of your caucus and other people as well. I am certainly not going to be defensive about that at all.

All I can tell you is that the Ministry of Labour is working very hard to try to resolve the problems, which we see and which are pointed out to us with great regularity, on behalf of all of the people who work within

this province. I think the ministry does so with a degree of compassion which is perhaps unusual in large organizations, with a degree of concern which I have come to appreciate, and with the speed which I guess unfortunately is tortoise-paced in the minds of those people who are observing, but which I believe is relatively rapid in governmental circles, whether it be on this continent or any other.

Mr. Chairman: Is there any further discussion on item 1 of vote 2201? Mr. McClellan?

Mr. McClellan: I have just a very short point. Let me just clarify: We seem to be a bit ahead of schedule. Am I right?

Mr. Chairman: I understood we were planning on trying to carry vote 2201, which has nine items.

Mr. McClellan: Nine? Okay, then I'll pass.

Item 1 agreed to.

Item 2, legal services, agreed to.

On item 3, research:

Mr. Mackenzie: I have some points to be raised here—not a lot of them, but on some of them Mr. Bounsall has also been very interested in getting some answers.

In the explanation under research, you deal with a number of topics being researched by the board, most of which, as we see it, probably can be achieved with a computer print-out. I am particularly interested in the effects of the anti-inflation programme, and I'm wondering if there are any comments on where you stand on that particular issue.

The other thing I wonder about are the last words in the second paragraph of your explanation of how the research branch works—"and many others." Could we have some idea of some of the other programmes that the research people are involved in?

Hon. B. Stephenson: Were you asking for a judgement about the anti-inflation programme at this time?

Mr. Mackenzie: You're studying the effects, and I'm wondering if there's any report that you can give us.

Hon. B. Stephenson: What we're looking at is a number of issues, but particularly those effects on the collective bargaining process which can be measured and certain other matters which directly involve and affect organized labour specifically. If you would agree, Mr. Chairman and Mr. Mackenzie, I would ask Mike Skolnik to expand upon the "many others" and the anti-inflation programme as well.

Mr. Skolnik: One of the problems in analysing the effects of the anti-inflation programme has been the difficulty in obtaining information from the board. We are in contact with the Canada Department of Labour and other provincial Departments of Labour, and we are faring no worse than they are in obtaining information and perhaps slightly better. What I can say is therefore limited by the information that we can get.

Probably one of the things you'd be most interested in are board rulings on rollbacks. In the period beginning when the controls came in to the end of June of this year, rollbacks on Ontario settlements averaged 1.1 per cent in the private sector and 4.9 per cent in the public sector.

To elaborate just a bit further, the average of the above-guidelines settlements for the private sector in Ontario was 13.8 per cent—and that's not just wages, incidentally; that's the Anti-Inflation Board calculations of the total package—they averaged 13.8 per cent and they were rolled back to an average of 12.7 per cent.

In the public sector, which was heavily dominated by the teacher negotiations, the before-rollback average was 19.4 per cent and after rollback it was 14.5 per cent. I hope we'll be able to update these figures beyond June within the next two weeks.

[12:45]

Mr. Mackenzie: Can you put any figures on the number of people involved or do you just have the percentages?

Mr. Skolnik: To the end of June there had been about 600 Ontario cases ruled upon. That is, the figures I gave on the rollbacks referred to about 600 Ontario settlements. I don't have with me right now the number of employees involved, but if you call the branch we can give you further information on this.

One of the other things that I think is very interesting to note is the considerable tendency toward shorter contract duration. Whereas 15.9 per cent of contracts negotiated in 1974 were one-year contracts, during the first six months of 1976 that figure had risen to more than 46 per cent. This has contributed substantially to an increase in workload just to keep track of what's happening. In our monitoring of settlements now we are having to monitor approximately twice as many during the year as we've had to in previous years, because so many more are one-year contracts instead of two- or three-year contracts.

Another thing that I think is interesting to note is the significant decline in the number of contracts containing cost-of-living clauses. From more than 50 per cent before the controls came in, this number has declined to around 25 per cent of contracts negotiated during the first six months of this year.

Mr. Mackenzie: Have your research people given any consideration to the potential effect of the shorter contracts to really heat up the labour scene rather than cool it out, because we're going to have many more confrontations much more quickly? One thing about a two- or three-year contract was that you had some relative stability, but you're going to be back into it again on a year-round basis with short-term contracts.

Hon. B. Stephenson: There is a ministry sensitivity to that possibility.

Mr. Mackenzie: I'm wondering whether, in your collection of data, you're pulling together any information that could be used in relation to a subject that was discussed earlier; that is, handicapped and disabled people. I'm not sure myself exactly what I'm looking for, except I have a feeling that the problem we're facing, as we discussed it earlier, is not necessarily the retraining; to a large extent, it's the attitude of many of the companies, who just won't hire somebody with a disability unless you can fit them into a particular slot.

While I've never liked the idea, I've come more and more to the conclusion that the only answer to getting a fair number of them back in the work place is a quota. I know some of the dangers of that, but I'm really beginning to wonder if that's not the only answer.

Only two weeks ago, I had a meeting with 37 of those people in my office—everything from blind people to people in wheelchairs—and some of their problems are severe. Very few of them were employed, while some of them were potentially employable, but the attitude of employers was, in effect—there are other ways of saying it—"It's going to cause me too many problems." I'm wondering whether any of the information you're pulling together would be useful in coming up with whatever you're planning in terms of the disabled. Is there anything in the figures you have on the work force that would help?

Hon. B. Stephenson: I think that those figures actually have been developed by the interministerial committee on employment of

the handicapped. The WCB figures are available to us as well, and will be used.

Mr. Mackenzie: Could I ask you, Mr. Skolnik, what you mean by "and many others"? Could you give us any examples of some of the other programmes you're into?

Mr. Skolnik: Yes, I guess I had better check to see what's listed here so that I don't repeat myself.

Mr. Chairman: Mr. Shore would like to ask a question in the meantime.

Mr. Shore: Could I ask, did you say there were 600 items that went to the Anti-Inflation Board?

Hon. B. Stephenson: There were 600 settlements from Ontario.

Mr. Shore: That had to go to the Anti-Inflation Board. Then how many settlements were there in total in Ontario? Do you have that information? I'm just trying to get an idea of how many settlements did not have to go to the Anti-Inflation Board.

Mr. Skolnik: I can give you a figure for Canada to mid-August; 43 per cent of the settlements in Canada had to go to the board. I don't have the Ontario figure.

Mr. Shore: Would you think it would be roughly in the same proportion, would it be extremely different, or you are not prepared to—

Mr. Skolnik: If I had to guess I would guess that it might be higher because of the large number of teacher settlements in Ontario which didn't occur in other provinces, and nearly all of those had to go to the board.

Mr. Reed: The figure 600; does that refer to the cases that have been heard to this point, or does that include the cases pending as well?

Mr. Skolnik: That referred to the cases for which I gave figures on rollbacks to the end of June of this year, and they have already been ruled on.

Mr. Mackenzie: Do you have the number that are before the board at the moment, by any chance?

Mr. Skolnik: No, and that's impossible to get from the board.

Hon. B. Stephenson: Until after they have made a decision.

Mr. Skolnik: We do publish in our monthly settlements report—you have probably seen it, we distribute 2,000 copies of it—a list of recent decisions by the board, and where a settlement that's reported in here is being referred to the board, we note that, although we can't always find out whether it's—as the footnotes say, that's imperfect—but we try as best we can to disseminate the information that we get about the board's activities.

Hon. B. Stephenson: Are there many more?

Mr. Mackenzie: Do you have any other? What caught my eye was the "and many others," and I wondered what the main ones were that you were involved in researching.

Mr. Skolnik: Some of the others that I think would be of interest include a study recently completed that I have here on union supply in construction trades in Ontario. It's the first really comprehensive examination of the number of journeymen and apprentice construction workers by trade, and by region, in the province. Prior to this we had been dependent on data from the federal government which gave information only on union affiliation, and not by trade, and this is the first time this information has been available. It was obtained through a survey of 170.

Mr. Shore: What does that tell you? Can you draw any conclusions from that information?

Mr. Skolnik: We haven't had time to draw the conclusions yet. We have just compiled the data.

Mr. Mackenzie: Is there a potential use of that in terms of where the jobs are and matching people to the jobs, I would presume?

Hon. B. Stephenson: It should be.

Mr. Skolnik: That was one study. Another that I don't believe was mentioned in here is a study that will be completed in December of wages and working conditions of agricultural workers in Ontario. Another is an examination of male-female earnings differentials in terms of annual earnings from census data, part of which was used in the study on equal pay for work of equal value. Another study which is under way now which is not referred to in here is an examination of turnover in Ontario, trying to estimate turnover rates and how they vary by industry and region, and to identify some of the factors that are associated with variation in turnover rates.

Mr. Mackenzie: The last hearing told some of the programmes listed that you were looking at, and you may have been affected by cutbacks, I don't know, but I guess you covered one of them. Three others in particular were employment practices and temporary help agencies; was there not a review or a look at the problems related to?

Mr. Skolnik: There has not been significant work done on that, due to other projects having higher priorities.

Mr. Mackenzie: I know the issue has been raised a few times. It would be interesting to see just what effects or what kind of exploitation does go on in terms of some of the employment agencies. I have had a little bit of personal experience with one or two of them in Hamilton that leads me to wonder.

The other thing is domestics and their working conditions and opportunities, and it's important because they are just not covered under The Employment Standards Act, and they don't have the right to organize, something I have to tell you very frankly I didn't realize until I talked it over just recently with Mr. Bounsall. I am wondering if there has been any follow-up or any further research done on the employment of domestics, and the work conditions of domestics and whether or not they should not have the rights. I can't really foresee who would try to organize such a difficult field, quite frankly, but certainly they should have the rights, and once again it's a field that mostly women are involved in.

Mr. Skolnik: We will be initiating this month a study of wages, hours and work arrangements of domestics. If you remember last year I mentioned that this project was intended to be contracted out to a consultant and had to be delayed as a result of a moratorium on contracts last year. We received bids from four different consultants, the selection was made last week, and the consultant should be starting on that within two weeks. We expect to have that finished by March 31, so that we can pay for it out of this fiscal year's money.

Mr. Mackenzie: So that's something I think that we need that is under way. What about the impact of the student differential and the minimum wage? Has anything been done on that?

Hon. B. Stephenson: At least an initial study has been carried out by the Youth Secretariat of the social development policy field. They have some preliminary informa-

tion as yet, but I gather they have not completed all of the examination of their study.

Mr. Mackenzie: My concern there is the fact that employers can use students at 35 cents less than the \$2.65 rate until they are 18, and let them go and move back in with another group. I was wondering what effect it has.

Hon. B. Stephenson: That's one of the problems of having a youth rate, I suppose. But this effect is going to be studied.

Mr. Mackenzie: You've dealt with the male-female wage differentials. There was a particular point Mr. Bounsall had wanted to raise—the attitude of supervisors toward bargaining with their employers. I am thinking specifically of the foremen in Windsor, who really don't have the right to hire and fire; but were denied the right to organize as a trade union. What they wanted was protection under the Act which they don't necessarily get—association or something. Has there been any research done in that field?

Mr. Skolnik: No.

Mr. Mackenzie: What about something that's relatively recent; are there any plans for the research people to take a look at an issue that was raised at a recent conference that I know the minister was at, and is a touchy situation even within the trade union movement, but I think is an area that ties in very directly with some of our safety and health problems, and that's the whole bonus or incentive issue. Has there been any thought given to a study of the effect that has on workers?

Hon. B. Stephenson: This has been raised primarily in the area of mining.

Mr. Mackenzie: Mining is probably where it's most obvious, but I think it's also a factor in some of the top production lines and rolling mills and so on in the steel plants. You get a split which I recognize right off the bat, even in those plants, but I think there is a very definite effect on the conditions and on the safety and health conditions that we run into, and I think it is something that the ministry—if it hasn't—is going to have to start taking a look at and doing some work on.

Hon. B. Stephenson: We haven't in the past, and it was raised as an issue, as you said, at that meeting. It specifically rushes to mind, and I gather there is some activity projected for study in that area.

Mr. Mackenzie: The other thing I am wondering—

Mr. Williams: What is the arrangement, Mr. Chairman? Point of order. Should we not now call the vote on the balance of the items? I understand we were completing this item today.

Mr. Chairman: Yes, it is 1 o'clock. If you have one more point—

Mr. Mackenzie: I have one more point on this particular issue, and that is the number of issues I think that are vital to the whole work force in industrial relations. The surveys you are doing are good, some that you should be into are good, and I am wondering—it may be difficult in a time of cutbacks—if any thought has been given to more people

in the research end of your department, more staff. I don't know how you are going to do some of those projects, but their absence could have a real effect on the work place.

Hon. B. Stephenson: There isn't any doubt that consideration is being given to that specific problem.

Item 3 agreed to.

Items 4 to 9, inclusive, agreed to.

Mr. Chairman: The committee will meet again after the question period on Monday.

The committee adjourned at 1 p.m.

CONTENTS

	Friday, November 5, 1976
Ministry administration programme	S-2827
Main office	S-2827
Legal services	S-2842
Research	S-2842
Adjournment	S-2846

SPEAKERS IN THIS ISSUE

Bounsall, E. J. (Windsor-Sandwich NDP)
 Germa, M. C. (Sudbury NDP)
 Haggerty, R. (Erie L)
 Mackenzie, R. (Hamilton East NDP)
 Mancini, R. (Essex South L)
 McClellan, R. (Bellwoods NDP)
 Newman, B. (Windsor-Walkerville L)
 Reed, J. (Halton-Burlington L)
 Shore, M. (London North PC)
 Stephenson, Hon. B.; Minister of Labour (York Mills PC)
 Williams, J. (Oriole PC)

Ministry of Labour officials taking part:
 Armstrong, T. E., Deputy Minister
 Skolnik, M., Director, Research Branch



Legislature of Ontario Debates

SUPPLY COMMITTEE—2

**ESTIMATES, MINISTRY OF
THE ATTORNEY GENERAL**

OFFICIAL REPORT — DAILY EDITION

Third Session of the 30th Parliament

Friday, November 5, 1976

Speaker: Honourable Russell Daniel Rowe

Clerk: Roderick Lewis, QC

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CONTENTS

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LEGISLATURE OF ONTARIO

SUPPLY COMMITTEE

FRIDAY, NOVEMBER 5, 1976

The committee met at 11:15 a.m.

ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL (continued)

On vote 1205, legislative counsel services:

Mr. Vice-Chairman: I see a quorum. Mr. Lawlor.

Mr. Lawlor: Again I want to mention Mr. Alcombrack and make mention of his yeoman service in his job over the many, many years that he has served this government and these Legislatures we have had. It is a tough job.

I want to congratulate Mr. Stone on his accession. We have all known Art Stone for a long time and have high confidence in him and an enormous amount of goodwill toward him. We wish you the best in this high post, probably one of the most difficult around, and you get damn little credit from anybody in the process.

The first thing I want to mention is a matter largely brought about by my colleague, the member for Riverdale (Mr. Renwick), in the previous estimates. It is the way in which the bills are being drafted; the fact that you put the existing clauses, the ones that are being amended, into the legislation. The side notes are much more valuable than the legislation itself. I think we can all agree with that. Generally the legislation which is now coming forward is more elaborate and more in line with Westminster and the way Ottawa has been doing it for some time.

I know the members of the House appreciate it enormously. It is wonderfully helpful. It's too bad legislation perhaps in that form just doesn't come through; and ought it not to get into the hands of the judiciary once in a while too? It would prevent or circumvent a good deal of adverse comment from the judiciary when they say they can't construe a particular section. The side note, written in simple layman's language, gives the tenor and purport of the legislation sometimes better

than the legislation itself, which has to be written in my opinion in more technical and nicer language than the side notes indicate. There has to be greater precision of language, etc., in the legislation.

I am not going to dwell on these questions during this thing. I want to read into the record a couple of remarks taken out of a legislative handbook, *The Preparation of Legislation; Report of a Committee Appointed by the Lord President of the Council*. The chairman was Rt. Hon. Sir David Renton. It was in May, 1975. In some remarks of his, he says: "Nothing is so difficult as to construct Acts of Parliament properly, and nothing is so easy as to pull them to pieces." This is taken from Lord St. Leonards in *O'Flaherty v. McDowell*, 6 HC Cas. 179.

Another remark that is made is: "I regret that I cannot order the costs are to be paid by the draftsmen of the Acts, and the members of the Legislature who passed them, and are responsible for the obscurity of the Acts, and their failure clearly to provide for such obvious . . ." etc. This is Scrutton, L.J. in *Roe v. Russell* [1928] 2 Kings Bench 117.

Finally: "It may be well to warn the draftsman that in his case virtue will, for the most part, be its own reward, and that after all the pains that have been bestowed on the preparation of a bill, every Lycurgus and Solon sitting on the back benches will denounce it as a crude and undigested measure, a monument of ignorance and stupidity. Moreover, when the bill has become law, it will have to run the gauntlet of the judicial bench, whose ermined dignitaries delight in pointing out the shortcomings of the Legislature in approving such an imperfect performance." This is from Lord Thring, *Practical Legislation*, page eight.

I have just a couple of questions. First of all, are ancient British statutes such as *The Act of Succession, 1701*, still part of the statute law of Ontario?

Mr. Stone: At the time of Confederation, certain of these were inherited. They are not consolidated, not necessarily, but there may

be some that are, I cannot really answer that one any more specifically.

Mr. Lawlor: The settlement one was the one that established definitively the independence of the judiciary—

Mr. Stone: Yes.

Mr. Lawlor: —in Great Britain after the long quarrels throughout the 17th century, and the Crown—

Mr. Stone: For those statutes that were inherited, unless they were consequently specifically re-enacted, one has to go back to where they are produced historically.

Mr. Lawlor: In other words, it comes to this: There may be a very large number of statutes which strictly speaking are statutes of Ontario and of which we have to be aware as practising lawyers but which are little known.

Mr. Stone: Could be.

Mr. Lawlor: I have one final question—just to test your temper this morning. Who has the power to finally determine what is a statute?

Mr. Stone: For what purpose?

Mr. Lawlor: Well, does the Legislature itself or Parliament make the final determination that a statute is a statute? Or do the courts?

Mr. Stone: I don't understand the question.

Mr. Lawlor: There have been a number of cases, particularly in certain South African cases, where the Supreme Court of South Africa has disputed certain legislation on racial minority questions, racial majority questions and packing the Supreme Court of South Africa. Just a few years ago, the Supreme Court of South Africa ruled that a statute passed by the House was not a statute because of the way in which it went through—the notice to be given, etc., all set out in legislation, were not abided by.

Mr. Stone: That must have been a special situation. The question has never come up here.

Mr. Lawlor: The question has never come up?

Mr. Stone: No.

Mr. Lawlor: There are cases in Great Britain on the same point. It's just one of those academic little footloose things that I like to indulge in once in a while, particularly

on a Friday morning. Okay, I have finished, Mr. Chairman.

Mr. Vice-Chairman: Any other questions on this vote?

Vote 1205 agreed too.

On vote 1206, courts administration programme:

Mr. Lawlor: Mr. Chairman, this is the biggest bulge in a sense and, since we are coming towards the end of the estimates, I would like to run over several topics on it.

The first one is courts administration. Recently a paper was given to the members of the assembly proposing a new scheme because the central west project didn't quite work out. The Law Reform Commission, as we all remember, said in its first great volume that in order to expedite the work of the courts, to get the log jams cleared up and to bring the courts into the end of this century, that a new scheme of court administrators or people specially skilled in the art of case flow management, should be appointed to the courts of the province. It has met with an enormous amount of resistance from the judiciary, who think that their ancient prerogatives are being impinged upon.

The matter of their ancient prerogatives has nothing to do with the actual process of adjudication itself, which no one seeks to trespass upon, but has something to do with what they call quasi-judicial matters, namely, does the judge start at 10 o'clock in the morning and finish at 5? Or does he start whenever he feels like starting and finish whenever he wants? Does he hear this case and not that case? This has been solely within the prerogative of the individual judge on the bench as such.

[11:30]

Arising out of the Law Reform Commission proposals in this regard, a scheme was set about a year or two ago, down south-western way, and the report given by the Attorney General was quite candid on this matter.

I received that with welcome. The judges in that particular domain don't find this very palatable and if they don't find it so there they are not likely to find it so anywhere else—and there is a general resistance, except yourself. As a measure the Attorney General, working with his staff, has proposed a no-man's land, a buffer zone; to have between the Attorney General's office and the court administrator a council, basically of judges, with a couple of lay people on the council.

The proposal is good. I don't know any other way you are going to solve the difficulty. It is almost ingenious. The council of judges is beginning to accumulate quite an array of tasks. The chief judges, apart from looking after their own courts—the family, county and what not—are being loaded with other responsibilities. The business of looking after JPs; I think they sit on that council too.

I would have thought Chief Judge Hayes, for instance, had his job pretty well cut out for him just to do what he is doing, much less have this particular supervisory function. But if they are willing to accept it, I think that it will soften the inter-relationship between the court administrators, on a purely administrative basis, and the judges themselves by imposing judges in between and I suspect you have got the goodwill and the assistance of many of these judges at the present time.

I don't think it will finally solve the difficulty. I think it is an anodyne which will kill the pain for a while, but you are still going to hear some cries of woe once the thing comes into operation. But what else can you do?

When the Law Reform Commission report came through, it said that the court administrator ought not to be under direct control of the Attorney General's department, that there should be some buffering but Mr. Dalton Bales, then Attorney General, said no, the court administrators must be—and this was followed by Mr. Welch subsequently—directly controlled by the Attorney General.

That was a mistake straight from the word go. It put everybody's back up. The judges said, "We are not going to have our toes trodden on in this particular way. The government is impinging upon our rights sufficiently over the years, etc., they won't even give us a raise in pay"—that is mostly all they talk about—"and therefore, on these scores, we won't go along. We will dig in our heels." And this is what has happened.

At the recent conference of judges in Toronto this year, you had an opportunity during that afternoon, I understand, to meet in groups, etc., outlining your schemes. I am not sure what reception you got from the judges. The judges who sat at my table seemed to be in accord. At least they are willing to give it a whirl and that is better than the present situation, where you are at loggerheads with the judiciary. So, it is not an ideal situation because the ideal situation would be that the Attorney General's department supervises in a direct way the operations of the court in their purely operational phase. Let the judges do the judging.

But that has not come to pass. Therefore, as an interim secondary measure, as always in politics, you have to never get the ideal, you always have to temporize somewhat and then compromise in the process of reaching decisions—this new proposal seems to me altogether acceptable. I wonder if the Attorney General has anything to say about that.

Hon. Mr. McMurtry: First of all, Mr. Lawlor, I appreciate very much your general tenor of support. The central west project worked out to the extent that I think it demonstrated to us very clearly the inherent difficulty of sharing these administrative responsibilities, of the division of responsibility in this respect. To that extent, I think the central west project was a success because it did bring into focus the problem that is very much a part of this division of responsibility.

Mr. Lawlor: Sometimes these pilot projects actually have some efficacy, eh?

Hon. Mr. McMurtry: I believe so.

Mr. Lawlor: I have to concede that.

Hon. Mr. McMurtry: It certainly demonstrated very clearly—and those who participated in the project agree—that a single authority is required. As you I think appreciate, the two basic concepts are firstly the independence of the judiciary to which you have already referred; secondly, and, of equal importance, an authority which can have an effective impact on the judiciary across the province.

I have to be very candid and say that in my view the line of authority, despite the presence of excellent people as chief judges and justices, is not totally satisfactory mainly because at the county and provincial court level, when you have a bench spread out across a large geographical area, it is very difficult for one person to have the degree of authority that often, quite frankly, is required to resolve some of the log jams. We certainly don't regard it as any great panacea but we do think it has the best possibility of success of any proposal which has been put forward to date.

There is no question, as you suggest also I couldn't agree with you more—the role of the chief judges and the chief justices will change somewhat. The Chief Justice of Ontario and the Chief Justice of the High Court indicated this. This was one of their early concerns in discussions that we had with them—the fact that in their role under this proposed structure they would have many

more administrative responsibilities throughout the system. There was initial apprehension as to this fact but I can say that after very full consideration, both, indeed all, the chief judges and chief justices, particularly the Chief Justice of Ontario and the Chief Justice of the High Court, felt that notwithstanding the greater burdens it will place on them, it was absolutely necessary if we were going to provide more effective administration and a better, more effective use of facilities for the public which must be served.

I reiterate, I am very pleased to hear your response, of at least initial support for the project because I think it is important that we achieve some consensus in the Legislature with respect to this very important matter.

Mr. Lawlor: Yes. I had another council in mind when I mentioned members of the public. There are six people to be appointed to this and they are all chief judges or judges appointed by the Lieutenant-Governor to the county court; chief judge of the provincial court, criminal division; chief judge of the provincial court, family division. By the way, you tabled a white paper on that day.

Hon. Mr. McMurtry: Yes.

Mr. Lawlor: Have you an extra copy of the white paper? Maybe other members would like one, too.

Hon. Mr. McMurtry: Every member was supposed to have received a copy of it. It was our intention—I thought we had distributed one to every member.

Mr. Lawlor: I will check my office. I am sorry; I didn't notice it and I thought I would like to have one. I may have one.

Hon. Mr. McMurtry: There is one.

Mr. Lawlor: Fine, thank you. There was a debate not long ago reported in the Ontario Bar News, May, 1974, a Mr. Eric Murray and John Robinette squared off on the issue. It should have been staged at Maple Leaf Gardens instead of the Ontario bar's spring meeting in Hamilton. It says:

"After the final bell, the decision would likely have been a draw. Mr. Murray, who took the affirmative, came out swinging, claiming judges have many more pressing things to take care of than running the administrative side of the courts. He said courts which have to be reliable, adequate and efficient have been plagued by holdups and delays that are often caused by the judges.

"In fact, he claimed 95 per cent of the administrative duties that now occupy a judge's time could be handled competently by trained administrators who would be responsible to the government." Mr. Robinette didn't quite see it that way. "Mr. Robinette said judges are not civil servants and justice is not a business."

As I say, there are points on both sides. However, when one speaks to judges, particularly senior judges, they do almost invariably complain about the load of paper work and that they can't get into the courtroom. "Look at my desk," they say. "Look at all these forms which have to be sent in. That idiotic Attorney General's department is forever seeking to elicit more information. They tie me up here—it used to be half a day week, I can remember, three years ago. Now it's five days a week and I haven't moved from this spot for hours."

Tabulation — the man is inundated. You could hardly see his sage white old head under the pile of forms to be filled out that day. On one side you get this complaint constantly and on the other side they are very jealous about surrendering these administrative chores.

Sometimes it's like an administrator in the educational system who, I think, secretly really hated teaching or judging and got himself hived off into some kind of administrative role etc., which he secretly finds much more palatable than what he is supposed to be competent at doing. That may be part of it; I don't know.

By and large they do complain and by and large it is an enormous waste of time. They are highly paid men and within that one per cent of the population making that much money—only Phil Givens and I belong to that group; it's a very select company they move in in that particular regard—so that talent—why the resistance? I'm not quite sure.

I suppose we all find it a bit onerous to have to be on deck at a particular time when we have got used to running our own show how ever we pleased to do so and being held in grave reverence and respect, even, in the process of doing it. He shows up three-quarters of an hour late, pretty much every morning of the week. Everybody knows as he comes down the hallway. Nobody would dream of saying, "Listen, you are being paid out of the taxpayers' money, get to work." No, that would be risky, because you might be up before him the following day.

One bites one's tongue but simply being a mere elected official I don't have to bite my tongue; I can let it wag which I do interminably. With that in mind—I'm not quite

sure—you did have these conversations. Did you get a good reception from the county court judges?

Hon. Mr. McMurtry: Yes. Mr. Callaghan, at the invitation of the chief judge of the county courts, went to Kempenfelt Bay and gave him a preview, quite frankly, just before it was announced in the Legislature. The county court judges knew something was coming and even though we were reluctant to do it before the white paper was tabled it seemed to make sense. I gather from what Mr. Callaghan said there seemed to be a fair degree of enthusiasm.

I don't think there is any doubt that the tardy judge you speak of, who regularly sort of trots into his court in his own good time, will really like this proposal much because there is going to be a structure with some considerable degree of authority, and conduct such as that simply will not be tolerated by the judicial council. That, I believe, is one of the advantages of the proposal. It is a little difficult sometimes for a chief judge, who is kind of regarded really as an equal, to have a very effective impact on a person who is not serving the public. I think these people are, fortunately, few in number but when the concern is expressed by the whole judicial council we think there will be some greater authority.

[11:45]

Mr. Lawlor: I think you will just have to bring in legislation—I don't think you will get much fight from us—and let's get on with it because it would be a great alleviation in the operation of the courts to get that finally under way and operating. That's partly the cause of the enormous backlogs we are suffering from.

Does anybody else want to get in on that? I want to go on to mergers for a few moments. Again, I am not going to spend a great deal of time on it.

The proposal for the merger of the Supreme Court and the county court has enormous merit. In logic, there is no question about it. If theory rules this world, it would happen almost immediately but it doesn't—and thank heavens it doesn't—human beings do and human beings have their peccadilloes and their instances. When you read the brief, which your department was good enough to give me last year, from the county court judges to your office—the brief is coercive in its reasoning.

Over the years, the overlapping of administration has gained apace. The county court judges, by and large—except for, say, murder

and a few crimes—have co-equal or at least the same overseership in the criminal field and in the civil field, except for a few types of actions like alimony, as the Supreme Court. The only reason they didn't give them to the Supreme Court judges was to give them an exclusive area of jurisdiction, not that there was the competence there.

We heard a great deal from—as I say, I'm not going to spend much time; we spent a lot of time on it last year—the three members of the Law Reform Commission, particularly Mr. Justice McRuer beating his breast before the tabernacle and saying collegiality—a wonderful word. Being a Catholic, I think of the College of Cardinals; I can't help myself. They are locked up in a room until they elect the Pope and they don't let the beggars out. There is nobody locked up in a room at Osgoode Hall.

While I am sure there is good relationships between judges some of them hate each other's guts, and where collegiality comes into play I am not quite sure. However, the argument is sentimental and psychological and what I am saying at the moment, and why I am not going to dwell on it, is these things will have to be worked out.

Over a period of time and in conjunction with the federal government, the areas of their coterminous jurisdictions should be brought closer and closer until they become identical and there is no further argument possible at all. It won't happen because of the way in which the legal mind operates, conserving values always, regardless of the values themselves—conserving simply to conserve without making a critical assessment of the benefits and, particularly in the press of modern economics, where the cost benefit ratios lie in this particular kind of thing.

Men's prestige, men's pride, is very great. When you come down to it, I suppose the only thing we have is our self-esteem. Supreme Court judges have this. The county court judges made a powerful case saying that they want it—you can understand that. They want to be raised in stature, given an ascendancy. Therefore you have to take it with a grain of salt and discount somewhat what they say.

The Supreme Court judges, as far as I know, haven't deigned to reply. That's very clever of them. It's probably better for them not to say anything because what really would they say except we're highly qualified men, we're better than they are, we are a nice group of 32, or 36 men who are in constant colloquy and converse, weeding out the law, refining it, etc. We're the brains at the top. Those fellows down there deal with

the day-to-day hurly-burly and humdrum matters of the court, but we are philosophers. We take the long view. We see civilization and hold it in the palm of our hands. What may happen 50 years from now is our proper subject of converse and the other fellows may do what they want from day to day, but this is it.

I'm making a caricature, somewhat deliberately, of the thinking that goes into this thing. As I say, have you got any representations? No doubt, you've had solitary representations behind the ear from a number of Supreme Court justices but have they submitted a brief to you or anything?

Hon. Mr. McMurtry: Not to my knowledge. I think the silence of which you speak, Mr. Lawlor, speaks for itself.

Mr. Lawlor: Do they speak to you sub rosa, under the laurel tree?

Hon. Mr. McMurtry: I think there is a recognition on the part of some of our Supreme Court judges that it's only a matter of time. I rather suspect that they're not looking forward to any particular shortening of the time. Certainly some traditional views that are held are very much entrenched. A merger, which I think makes a great deal of sense in principle, would be very strongly resisted by a large number of the Supreme Court judges. Of this I have no doubt. I think I recognize that it may well be in the public interest to bring about such a merger. I can say that a number of the other provincial Attorneys General from the provinces where there is no merger are generally of the same view. Some of the provinces are proceeding with a merger, aren't they, Mr. Callaghan?

Mr. Callaghan: New Brunswick and Saskatchewan are proceeding with it at this time and it's under intensive study in Alberta. In Manitoba it is beginning to show rumbles. British Columbia attempted it in a very unfortunate manner back about 1968. I understand that they are reviewing the steps they took at that time.

Mr. Lawlor: It didn't come about in British Columbia because—

Mr. Callaghan: They did it arbitrarily without consultation with the federal government, as a result of which the federal government would not confirm the appointment of the county court judges as Supreme Court judges. That was back before this present government and before the immediate predecessor. It was three governments ago. They abolished

the county court and created, I think, 35 or 36 Supreme Court positions. But the federal government refused to appoint the then 16 county court judges to the vacant Supreme Court positions. I think the situation still sits that way right now.

Mr. Lawlor: What was the reaction of the Supreme Court judges in Manitoba and Saskatchewan?

Mr. Callaghan: Manitoba is studying it. New Brunswick and Saskatchewan are the two provinces that are moving towards it. The Attorney General of Saskatchewan from the last I heard issued a directive indicating that it was his policy to effect it and he advised the Law Society of that no more than about four months ago. New Brunswick has actively worked out an arrangement with the various courts. They haven't effected it yet but they're in the process of evolving the system through which they're going to it. They have indicated publicly that that's their intention.

Mr. Lawlor: As far as you know, are there any howls from the senior judiciary?

Mr. Callaghan: I wouldn't know. I would assume there probably would be. It's a system that if you look to Georgia—President-elect Carter, it's one of his claims to fame that he unified the trial courts in the state of Georgia. It seems to be the trend.

Mr. Lawlor: Gee, if you do that, Roy, you just might become the PM.

Hon. Mr. McMurtry: God forbid.

Mr. Lawlor: I want to return for a moment to the Quakers. While we have to supply you with some information about dates, the case of Douglas Chapman and the fact that he spent four months in jail waiting to plead guilty on two minor charges. The complaint here is that it also indicates that it was doubtful whether they have the authority—"some JPs exercised the authority to reject certain persons offering bail if they disapprove of them for any reason."

In the administration of the courts here—I just want to touch on this and get these separate matters out of the way—what happens and what is claimed that happens is that they produced sureties, etc., but the Crown kept on saying no. The husband and wife owned a home jointly, but she was not accepted for bail because it is said that the house was partly his and therefore was unacceptable.

I know that's the practice, but ought it to be? I mean if it's joint tenancy and half-and-half interest and the house is worth \$40,000, there's a \$10,000 odd mortgage on it, and the bail is \$5,000, ought not the wife be able to tie up her portion?

Mr. Callaghan: In the facts as given by you it probably should have been accepted and normally would have, but there must have been some reason for it not to be accepted. I wouldn't know that. Maybe they couldn't produce the deeds. Maybe they didn't produce sufficient evidence of the actual holding or the degree of mortgage or the extent of the mortgage.

I think he has to assure himself that the security which is available can meet the amount of the bond. The only basis for rejecting it under those circumstances would be for some reason he wasn't satisfied.

Mr. Lawlor: Yes, that's the answer I wanted. I can't ask for more.

They go on to say two other friends of his locally, ready to meet bail, were also rejected. You have to look into the facts of the case, I'm only dealing with it on a hypothetical basis.

A Crown can effectively deny bail to an individual who has obtained it from the court by simply rejecting, one after the other, the people who appear.

Mr. Callaghan: That theoretically is possible. I would hope it didn't happen. I assume that they act in good faith.

Mr. Lawlor: If you find in this particular case that there's some merit to these contentions, etc., perhaps one of those little mis-sives or directives might go out that bail is not to be opposed simply because of some kind of subjective judgement that the guy ought to be in jail.

Mr. Callaghan: I'm sure that no Crown attorney in the province would do that. I think that once the judge has directed the bail and the amount of bail, then the Crown would only be concerned with whether or not the security offered was sufficient to meet it. Any other consideration would be irrelevant.

Mr. Lawlor: On small claims court, I have a letter from a gentleman here, the name doesn't matter. He had written to the Hon. Roy McMurtry on April 20 of this year, about service of a small claims court summons on Sunday. I don't think there's any

harm in it. It's a Clifford Brown letter. His claim is that he received a summons. Is that—

Hon. Mr. McMurtry: It's not an improper exercise or issuance in the process.

Mr. Callaghan: He can say he wasn't served.

Mr. Lawlor: No, he says his wife phoned him.

[12:00]

Mr. Callaghan: But if he appears in court he waives the irregularity.

Mr. Lawlor: That's apparently what he did. That's what he's mad about.

Mr. Callaghan: That's very smart.

Mr. Lawlor: The next matter I want to bring to your attention is a letter I received from a lawyer. Again, I have no authority to disclose names, so I have to deal with the facts of the situation. The court was a provincial court in Lambton Mills on July 21, 1975. The letter says: "I'm writing to you with regard to an incident that occurred in Lambton Mills provincial court July 25, 1975, involving a practice being carried out by that court and I understand some other courts within the Metropolitan Toronto area.

"On that day, I represented a Mr. X who was charged with attempted theft under \$200 involving the attempt to steal a quantity of lumber. On this date he pleaded guilty of the charge and upon representation was granted conditional discharge by His Honour Judge Parker. He was ordered to enter into a probation order and to sign a conditional discharge form.

"After sentencing, my client and myself went to sit in the body of the court and I was informed by the court clerk that Mr. X would have to go with the officer. I was content with this as I understand that he was simply to return to the back of the court where he was to sign the probation order and would be released.

"I went by way of another door to the back administration office of the court where I was unable to find my client. I then returned through the courtroom and proceeded into the cell area where I found my client locked up in a cell. I returned to the court and when appropriate I addressed His Honour, indicating that I felt it was improper procedure that a person who had not been convicted of a criminal offence but was merely waiting the signing of a paper was arrested and taken back to the custody pending the signing of the paper.

"Crown attorney, prompted by the argument of the court clerk that His Honour was a *functus officio*, argued that His Honour had no say in the matter as to how this man was to be held pending the signing. His Honour agreed with me that he did not find it a proper procedure, and ordered that Mr. X be returned to the court. And I agreed to accept the custody of Mr. X as an officer of the court until the document was signed.

"When the court adjourned, I went along with Mr. X outside the court to the administrative offices where he could wait for a signee, and was ordered by the clerk to remain in the court, as His Honour had not directed me where to stay with Mr. X, and Mr. X remained in my custody. I disregarded the order and went with the police officer to the back where Mr. X subsequently signed the document and left the court.

"I discussed this matter with Mr. Matusiak who was present in the building, although not the Crown attorney in the courtroom. Mr. Matusiak informed me that it was a common procedure at the old city hall provincial court, that it was purely an administrative matter as some accused left the court without signing and this was to guarantee that the order should be signed. I returned to court a few days later and was informed by the same court clerk, whose name I do not know, that Judge Parker had looked into the matter and informed the court to continue the procedure of locking up accused until the orders were signed. I attempted to see His Honour but was unable to due to the heavy court schedule that morning and have not discussed the matter with him."

Then he goes on to talk about suits for false imprisonment and various forms of action. What is the response of your office to that particular situation in some of the Toronto courts?

Hon. Mr. McMurtry: I'm not aware of it. I don't know why this administrative procedure would be necessary under law. If it wasn't necessary under law, it certainly shouldn't be tolerated. Unless somebody else can assist me further, we can pursue the matter and let you know.

Mr. Lawlor: I'd like to know. I mean it can be an inconvenience and you very well might be subject to suit in that context, because he had been discharged and was being held improperly under no charge at that point at all.

Hon. Mr. McMurtry: Could I have a copy of that? Do you want to delete the names?

Mr. Lawlor: I want to leave out the names and keep them in confidence.

Like a toreador in Carmen waving the red flag before the bull, I wave before you a Globe and Mail of November 19, 1968. That was back in the old days when there were magistrates. The headline reads: "Delays that Strangle the Lower Courts." Lo and behold, 10 years later we are in the same situation, aren't we?

Hon. Mr. McMurtry: I gather we were in the same situation 100 years ago, from some of the research I have done, and some documents provided to me by Mr. Campbell indicated that this was one of the concerns of Lord Durham even back in—whenever that date was. It's a problem which has faced society virtually throughout the ages. The only places I suppose where it hasn't been a problem is where they don't worry about processing people through the courts; they use more direct methods.

Mr. Lawlor: We've heard of the delays of justice in certain plays but in the old days that had largely to do with civil proceedings, I suggest to you, and the criminal courts were fairly expeditious until fairly recently; until the last decade or so.

Hon. Mr. McMurtry: I'm not attempting today or any other day, to be an apologist for the system. As I said before, the fact that the system works as well as it does is more of a tribute to the dedicated people who work within the system than it is to successive governments which have failed to provide the administration of justice with adequate resources.

Mr. Lawlor: Yes. You've appointed or you're appointing—in the process of appointing—more judges; 16, is that correct, in the criminal division, provincial court?

Hon. Mr. McMurtry: Yes, 16 in the criminal.

Mr. Lawlor: How many have been appointed thus far?

Hon. Mr. McMurtry: I can give you, we have that figure—it's a total of 16 that we've appointed out of the 26 we're going to appoint provincially. As you can appreciate, we're not rushing with some of these appointments, because we're looking for quality and, fortunately, finding quality. I have a breakdown of the appointments we've made, the gentlemen and ladies—one lady—all well known to me. I have to say I don't make any

apology in taking a certain degree of personal pride with respect to the quality of these appointments which have been made.

Mr. Lawlor: How many are appointed?

Hon. Mr. McMurtry: Sixteen.

Mr. Lawlor: The whole of 16? Ten family courts? How many have been appointed?

Hon. Mr. McMurtry: I've got a list of 19 here.

Mr. Lawlor: You've got 19?

Hon. Mr. McMurtry: Maybe one or two — well, no —

Mr. Lawlor: As announced during the summer there were five Supreme Court—

Hon. Mr. McMurtry: Yes, I'm sorry — 19 in total; 12 criminal, seven family to date. So it's 19.

Mr. Lawlor: Yes, 19.

Mr. Callaghan: There are four criminal and about three or four family to do.

Mr. Lawlor: Four criminal. Are they all in Toronto, those four criminal?

Mr. Callaghan: No.

Hon. Mr. McMurtry: No. We have one or two in—one of the problems is courtroom space but the majority in Toronto have been appointed. Yes, we've appointed six criminal in Metropolitan Toronto; there are two more to appoint.

Mr. Lawlor: And family again?

Hon. Mr. McMurtry: Are you interested?

Mr. Lawlor: Family? No, I don't want the —they come in the paper. We get them all the time.

Hon. Mr. McMurtry: Family? Is it York you're interested in?

Mr. Lawlor: Yes, York first of all.

Hon. Mr. McMurtry: In York, we've appointed three out of the four appointments. I think there are four family in York and we have appointed three out of the four.

Mr. Lawlor: And the five new Supreme Court justices?

Hon. Mr. McMurtry: They've all been appointed.

Mr. Lawlor: And nine county court?

Mr. Callaghan: Five have and four haven't.

Mr. Lawlor: Four haven't, eh?

Hon. Mr. McMurtry: The delay is caused —I think the federal government have an understandable problem with respect to their pool. They keep a certain number outstanding at all times for the whole country and we are pushing them for these appointments. Wait a minute, didn't they make—

Interjection.

Hon. Mr. McMurtry: Weren't there some appointments made recently?

Mr. Wright: They were replacements.

Hon. Mr. McMurtry: Were they all replacements? They were all transfers.

Mr. Wright: We do have a problem with them. We asked for nine county court judges for general services. They have given us five and there are four outstanding. Three of the four might have to go to the unified family court.

Mr. Lawlor: Do you accept the 90-day limit for the completion of criminal matters from the date of arrest or summons to the completion; as a target, as a goal?

Hon. Mr. McMurtry: I am sorry. I didn't—

Mr. Lawlor: The Law Reform Commission recommended a 90-day period from the time of the summons or the arrest to the completion of the case.

Hon. Mr. McMurtry: I think it is a very desirable goal. I don't know how realistic it is at the moment, but I think it is something we should work towards.

Mr. Lawlor: What is the period now on the average? Have you got statistics on that?

Mr. Callaghan: On the central west project we have statistics. At least 50 per cent of the cases don't meet the 90-day. I don't know what the overall average is.

Mr. Lawlor: It would be an interesting figure. I suspect it would be half a year.

Mr. Callaghan: Oh, no.

Mr. Lawlor: No?

Mr. Callaghan: Well, we will find out. Mr. Wright will give us the statistics.

Mr. Wright: We don't have the statistics. We just have the percentage over 90 days, but we don't have—

Mr. Lawlor: What percentage?

Mr. Wright: In the central west region, where we have the criminal information system, I can give you a copy of this in all the 10 counties. In each county it gives the percentage of the cases which are over 90 days. For example in Brant, 34.8 per cent of the cases are over the 90 days.

Mr. Lawlor: Yes; and in Dufferin it goes to 43 per cent, in Wellington it goes to 51 per cent. In Wentworth, where you tend to get a concentrated population, you go to 56 per cent; and in the city of Toronto you go to 91 per cent.

Mr. Wright: I don't have the figure of Toronto.

Mr. Lawlor: All right. It's extrapolated.

Mr. Wright: You may keep that.

Mr. Vice-Chairman: It seems to be popular these days.

Mr. Lawlor: That's right. Everybody is doing it. It will be quite a while before that's achieved. Just to come back to Legal Aid for a moment; you expand the courts, you expand the judges, but you won't, or you dig in your heels on expanding Legal Aid. You can't do one without doing the other. If the volume is there, then it's there.

Hon. Mr. McMurtry: We are not digging in our heels at all; and again I must take issue with you when you insist on mistaking government policy. With all due respect—

Mr. Lawlor: It's the way it looks from where I sit.

Hon. Mr. McMurtry:—our concern with respect to Legal Aid is to assure to the best of our ability that the taxpayers of this province get the best value for their dollar. We haven't changed the eligibility criteria. We haven't reduced or amended or buried the statutory rights that people have in respect to access to Legal Aid.

Mr. Lawlor: And on your budget situation you have done yeoman service in getting added money, no question about it. It all goes to salaries for judges and Crown attorneys; and again the far end of the scale takes the short shrift. That's my statement and I stand on it. I don't even want to argue with you about it this morning.

[12:15]

Hon. Mr. McMurtry: He's acting like a chairman with you, Mr. Chairman.

Mr. Vice-Chairman: I think he is being fair.

Hon. Mr. McMurtry: He has put a gag, though, on the minister.

Mr. Lawlor: If you want to challenge the Chair, go right ahead.

Mr. Callaghan: In looking at these statistics, Mr. Lawlor, that were given to you a moment ago, I think it is only fair to point out certain parts of them. If you look at the number of cases in this area disposed of in under 30 days, you will find 30 per cent in Brant; 25 per cent approximately in Dufferin; 20 per cent in Haldimand; 20 per cent in Halton; 30 per cent in Niagara north; 42 per cent in Norfolk; 30 per cent in Waterloo approximately; 35 per cent approximately in Niagara south; 20 per cent in Wellington; 18 per cent in Wentworth.

Mr. Lawlor: If you look at the number of cases—292 in Norfolk and 237 in Dufferin.

Mr. Callaghan: The point I am trying to make is that notwithstanding our failure to meet the 90-day rule in 50 per cent of the cases on average, we meet a 30-day rule in a not inconsiderable number of cases. We are not far off 90 days if we have the proper resources and can apply them.

Mr. Lawlor: I am looking at a list supplied to me by somebody by the name of Frank Callaghan. I wrote to him on April 27 asking for complete updating on court backlogs. The document he sent back to me on May 12 has all these figures, broken down with respect to the criminal division and the various courts in the city. First of all I want to refer, on the second page of that, to county court trials de novo; total on hand 3,237.

Mr. Callaghan: It is over 4,000 now.

Mr. Lawlor: You say that too complacently.

Mr. Callaghan: I don't mean it complacently. I just don't know what to do with it. Everybody takes a trial de novo if they are convicted and their licence is suspended. It is the greatest gimmick we face in the system. You file your appeal and you keep your licence; the case never gets heard and you keep it until your points are reinstated. If you are close to points—you know this; if you accumulate 12 points and you get convicted and you are going to lose your licence, you file your appeal. If you can make it last another 12 months, you will get back at least eight of the 12 you have already lost and by that time you are in good shape and you don't care whether they go on to appeal. This

is the conundrum we are faced with and the net result is we have this tremendous backlog—

Mr. Lawlor: Wasn't it your government which altered the law a few years back?

Mr. Callaghan: It's not my government, Mr. Lawlor. I am just a public servant.

Mr. Lawlor: What?

Mr. Callaghan: I am just a public servant. I just explain the situation. That is your job.

Mr. Lawlor: Could not the government of which you are a public servant and chief adviser to the Crown, alter the legislation?

Previously there was a \$50 deposit or something which had to be given and that seemed to keep the thing in some kind of balance. Now, it's *carte blanche*.

Mr. Callaghan: That's right. We tried removing the—we tried a filing fee and that created such a furor—

Mr. Lawlor: By whom?

Mr. Callaghan: A number of lawyers complained—it was a nonsense complaint—that we were prejudicing the rights of people to appeal by requiring them to file a filing fee of \$10.

Mr. Lawlor: You are not often moved by nonsense complaints, Mr. Callaghan.

Mr. Callaghan: This one was successful.

Mr. Lawlor: Even the gods sleep.

Mr. Callaghan: I think the answer to this will rest in certain amendments to the Criminal Code which will now permit the court to deal with trials *de novo* of this nature on the record without a complete new trial—and some help from the Ministry of Transportation and Communications with reference to the point system.

Mr. Lawlor: That's because they have to file a transcript of evidence, which costs money and which will give them a slight pause in launching the appeal.

Mr. Callaghan: I don't know what the answer is to the 4,000-case backlog. How that is eventually disposed of is a problem for the judges in York county.

Mr. Lawlor: My only point being that you had the cure within your own hands and didn't apply the unction, that's all. You still have. If this thing continues, and even in face of the transcript, you can set a filing

fee. It seems sensible to me. It is a deterrent fee, but it is being ripped off and it shouldn't be too large, I agree with that, because many individuals have a right for a trial *de novo*.

Mr. Callaghan: There is no filing fee, if I recall, as a result of a provision in the Criminal Code which permitted us to require a prepayment of what, in effect, would be the costs of the appeal. So at that point in time we were able to insist on a \$50—it wasn't really a filing fee—as security for costs. They removed that provision from the Code and I think we lost jurisdiction to impose a provision for security for costs, short of a filing fee of substantial nature. There is at the present time a \$10 filing fee, which doesn't deter anybody. A \$50 filing fee could very well create great problems.

It is a problem that we have looked at but we haven't really resolved it yet.

Mr. Lawlor: Well, as you say yourself, it is quite horrendous that that situation has been permitted to build up.

Going down to the Court of Appeal, criminal; it used to be two weeks to a month, now sometimes it is four weeks. What is the length of time, once you've got your appeal filed on a criminal matter, in which the matter is heard?

Hon. Mr. McMurtry: The main factor there, I guess, is when the transcripts are going to be available. I gather, from discussion with our appeal counsel within the ministry in the past week, that they are almost right up to date.

Mr. Lawlor: In that court?

Hon. Mr. McMurtry: Yes, once you get the transcript.

Mr. Lawlor: Once you get the transcript? The transcript is equally necessary in the case of the prisoner alone, is it?

Mr. Callaghan: That's right.

Mr. Lawlor: Probably more necessary.

Mr. Callaghan: The Chief Justice recently brought in a directive, a practice rule, requiring counsel to agree on what portions of the transcript are necessary, with a view to shortening the time between ordering the transcript and its preparation. So if you are only arguing a particular point in the court then only the evidence relevant to that point will be reproduced. It is hoped that that will cut down the transcript time considerably. That is the problem of delay in that

area, it is very difficult for the court reporter who does the trial to sit in court the next day on a new trial and then prepare a transcript for delivery to the Court of Appeal.

Mr. Lawlor: How is divisional court of appeals? At March 31, according to your figures, total on appeal was 292 and applications for judicial review 158, giving a total of around 450. Are they backlogged?

Mr. Callaghan: The problem—if I could put it this way—it's really a question of definition, although some people would like to see a completely clean sheet there is no possible way that any court can run without a backlog. The real question is how long it takes you to get your appeal on from the time that you've perfected it until the time of hearing. Both in the court of appeal and divisional court, there is no really substantial difficulty after the counsel perfect the appeal, that is file the memorandum of fact, file the appeal book.

The divisional court is basically in the same position. Although their backlog in the sense of cases going into the court is increasing, I don't think there's any great problem between the time it is perfected and the time it is set for hearing, because they have sufficient judges with their case load. They have two panels of the divisional court sitting, with a case-on-hand list of 450, compared to your court of appeal which sits with 14 judges and has something over 1,000 cases on hand total.

So the divisional court really is not that overworked in that sense. I'm not saying it is underworked, but I am saying there is not that great a delay once counsel are ready to go. An awful lot of the problem today is counsel finding an appropriate time to get a case on and getting all the material together.

I don't think anybody can blame those courts for not being available or for delaying the bringing on of cases. I think those courts are within a very reasonable time, available for a hearing, within two to three weeks once you're perfected.

Mr. Lawlor: Let's take a side alley. Some of the delay then—and I'm more concerned on the criminal side for those who are not out on bail pending these appeals—is obtaining transcripts. Have you complaints from the bar as to—I mean we've had it in previous years—discontinuing this interminable delay trying to get the court reporters to type up a transcript?

Hon. Mr. McMurtry: I think this is still a problem.

Mr. Wright: Every once in a while we will get a unique situation, which we immediately look into and get the reasons why the transcript is not being prepared. We do have a problem in the Supreme Court with reference to the fact that most of the reporters are either a shorthand reporter or a stenotype reporter. It's a duplication of effort at the moment in the fact that when they come out of court, in order to get the evidence in readable form for a typist they in fact have to dictate that onto a tape, which is a duplication of effort.

We've had a concentrated effort this fall. We identified a number of court reporters who had X number of pages backlogged as far as transcript is concerned, and now we have them on a reporting basis. One of the ways in which we're trying to keep them out of court as much as possible is when the Supreme Court goes out of town we are trying to arrange a court reporter in that area to take the court and leave the Supreme Court reporter home so that he'll be able to keep up on his transcripts.

We are working with the problem and looking at the new technology, looking a little bit into the CAT system, a computer-aided transcription which is being experimented with in the United States. This, we feel, might be a means of bridging that gap of duplication of a reporter's time.

We're also looking into note readers for steno typists, somebody who can in fact take paper notes and actually read those so that he doesn't have to spend the time dictating on a tape, which is a duplication of his efforts.

Mr. Lawlor: You were talking about the Supreme Court reporters in this. Have you a very considerable shortage, or a remarkable shortage, of court reporters, so that some can be taken out of operation while they get their previous work caught up and are there sufficient to substitute?

Mr. Wright: The situation is improving. We have been able to get some free-lance court reporters in the area, good secretaries and so on who just want part-time work, and we are able to put them on a contract basis to fill in in situations where we need an extra court reporter.

Mr. Lawlor: To do with the electronics of the thing just for a few minutes: In the North York traffic tribunal, there's no reporter present, you take it down on tape.

Mr. Wright: Yes, there's a court monitor who sort of monitors the equipment, logs the proceedings and so on.

Mr. Callaghan: We do that in many courthouses around the province.

Mr. Lawlor: You do? That's what I was coming to.

Mr. Callaghan: For instance, in the courthouse in Norfolk county, Simcoe; there a beautiful new courthouse is all designed for that, and all we have are the lady monitors who tape it, it's all electronically recorded.

Mr. Lawlor: And this applies to all levels of court?

Mr. Callaghan: Yes, down in Norfolk; except that the Supreme Court judges sometimes insist on taking their own reporter with them. But every other court there uses the electronic recording system and it works very well.

Mr. Lawlor: It works well?
[12:30]

Mr. Callaghan: But the problem you face is that in some older courthouses the acoustics aren't adequate for it, so that it can become very expensive to take an old room, like this for instance, lower the ceiling and put in the proper acoustical preparation so that you can do it.

Mr. Lawlor: It would be difficult in the city hall in Toronto.

Mr. Callaghan: Somewhat. They use a stenomask there in many of the courts. That has proven effective.

Mr. Lawlor: How does that work?

Mr. Callaghan: The lady just talks into the mask and it's recorded on a tape.

Mr. Lawlor: But then that has to be transcribed again.

Mr. Callaghan: That's right.

Mr. Lawlor: But it goes onto tape, and therefore can be immediately put into the hands of a stenographer who can rattle it off. Have you considered using the video tape methods at all, as the Americans are beginning to do?

Mr. Callaghan: I think we've had some panels on it, but as a functional matter we haven't got into that yet. Our resources haven't been allocated in that area. We just

don't have resources in the other areas sufficient to permit us to get into that.

Mr. Lawlor: You are watching the American experiments in this regard, though, I take it?

Mr. Callaghan: Yes.

Mr. Lawlor: Just one comment on that. It'll come eventually, no doubt, because on an appeal it's not the words we say that are so important, it's the way we say them. In other words, the demeanour of a witness, his quality on that witness stand, his hesitations, all of this is never transcribed; and that applies to the most crucial things of all, the way he mixed and slurred certain words were more important than anything he ever said.

Mr. Callaghan: I don't know. I'm not so sure that would be a good thing for a court of appeal, because the court of appeal would then start re-trying the case and your jury wouldn't. I mean they'd overrule the jury, and I have confidence in the jurors; I think they are probably better judges of whether or not the witness' slurs are meaningful. I think it can be very useful in areas where you have sick witnesses who can't attend in court, situations like that.

Mr. Lawlor: And possibly in the case of a judge alone too. That's a particular province of the jury to make that assessment, but in the case of a judge alone it might be otherwise. Maybe I don't want it at all, it would only strengthen the hands of the Crown.

Mr. Callaghan: The Crown is only interested in doing justice, Mr. Lawlor.

Mr. Lawlor: That's what they say. As I say, the thing Mr. Callaghan supplied me with terminated March 31. In the county court the total cases on hand on motor vehicle were 696, jury 248, non-jury 448. How do those figures compare today? Have they gotten worse or have you been able to alleviate it a bit or what?

Mr. Callaghan: Maybe Mr. Wright can give us a more up-to-date—that was the first quarter of 1976, the figures I sent you. Do you have the second quarter for 1976 yet?

Mr. Wright: We don't have them. What we do have is a comparison from the previous year in the county court. In York, for example, jury cases increased by 102 per cent. The remainder of Ontario was a bit down from the previous year.

In non-jury in York county court, the cases increased 40 per cent. In the remainder of Ontario they were up 20 per cent. I think in

most of the statistics, Mr. Lawlor, there has been just a gradual increase in all areas of the court operation, as far as the caseload is concerned, between the first quarter of 1975 and the first quarter of 1976; in some cases dramatic increases.

Mr. Lawlor: In the Supreme Court, I won't go over all the figures, you've divided them into motor vehicle cases and Supreme Court divorce—

Hon. Mr. McMurtry: I'd like to make an observation here, and I'd be interested in what the members of the committee feel about it. Although my old firm used to do a lot of work for insurers, I am personally concerned about the extent to which automobile subrogation cases are coming out of the courts.

I think individuals with a deductible of uninsured loss, of course their rights to go to court should be jealously guarded. But personally, I think a lot could be gained if the insurers were encouraged to litigate their losses, subrogated losses, through some other tribunal that was set up by the insurance industry.

Mr. Lawlor: That would take the load completely off the courts and you wouldn't have any problem.

Hon. Mr. McMurtry: It wouldn't remove all the motor vehicle accident cases. Of course, I'm talking about property collision losses as opposed to personal injuries; and some people feel they should be taken out of the courtroom too, which I don't share.

I think individuals should have the right to have their compensation determined in the courts, but certainly with respect to losses that are purely subrogated claims the insurance industry themselves could set up a tribunal that would maintain any rights, that would be appropriate to resolve any disputes they have amongst themselves.

Mr. Lawlor: Larry Grossman and myself were recently in Switzerland on a summer committee, and we learned that the law was altered in Switzerland so that you did not sue the insured, you sued the insurer. I think we've come to the conclusion that if you sue direct, the cases drop off astronomically. They have only a handful of cases now in Switzerland, I think 11 last year against the insurance companies. In other words the insurance companies try to hold their marketability and their role in the community which is downgraded if they are sued directly.

If you bring in compulsory automobile insurance, everybody will be insured auto-

matically and no jury is going to be in the dark as to who is actually the defendant in the particular case—and the contribution in tort is operative there, the whole thing. First of all, it might very well lead to setting up a special tribunal in that particular context, particular with no-fault concepts.

On the other hand, if you altered your law just slightly—The Insurance Act—and made them the vulnerable targets, you might find—I think you would find, as in the Swiss experience—that the cases will drop off wonderfully well. They'll settle and keep out of the courts rather than go through the exposure.

So our present law militates in favour of these ongoing, cumulative motor vehicle accident cases, particularly in the collision field. I'm not going into the virtues of pain or suffering as being a matter of litigation, that's another day and another minister.

I would like to take a few minutes, in continuity with what we're saying here on this head, but if anybody else wants to get in by all means do so.

Mr. Kennedy: I wanted to ask a question or two about compensation if this is the right vote, Mr. Chairman? Are we taking vote 1206 in total?

Mr. Vice-Chairman: Yes, the minister indicated the other day this was the appropriate vote for that question.

Mr. Kennedy: Very well, if I may take a minute or two. In the white paper on courts administration, just being put before us, I don't notice any reference to small claims court. Is this part of the whole package?

Hon. Mr. McMurtry: Yes.

Mr. Kennedy: I presume the problem associated with them parallels the problems you've brought up here, insofar as the need for expansion of these facilities is concerned. Is this correct?

Hon. Mr. McMurtry: There are problems in relation to facilities in the small claims courts too, Mr. Kennedy.

Mr. Kennedy: On page four you mention the caseload and the build up of it, which is really shocking. You explain some of the reasons for it on page five, which I can understand, but overriding all this is a trend toward a lack of obedience to the law generally. Is this a fair statement, that there's a social problem or a breakdown socially of the respect for law and order?

Hon. Mr. McMurtry: I don't think this is a major factor, Mr. Kennedy. I think you have to take into account population increases, perhaps more effective law enforcement, perhaps an increase in regulatory statutes of one kind or another.

Mr. Kennedy: You think it's still continuing?

Hon. Mr. McMurtry: There are increases, and we do know there have been increases too in the crime rates, which to that extent would effect a certain breakdown I suppose of society's values.

Mr. Kennedy: Relative to population, it is a bit or somewhat higher.

Hon. Mr. McMurtry: One of the arguments I make over and over again is that governments, provincial and federal collectively, have some rather simplistic notions about effective law enforcement. They tend to regard effective law enforcement as being represented by more and more police officers. Often it's necessary to increase our complements in law enforcement agencies, but they seem to forget that every police officer on the street, has the potential to inject a large number of cases into the criminal justice system every year. When we continually increase the sizes of our police forces without a corresponding increase in the court facilities and the correctional facilities, we run into these very unfortunate backlogs in the courts and overcrowding in the correctional facilities.

Mr. Kennedy: What puzzles me a little bit, or maybe I don't quite understand it—are you saying that if you add a policeman you'll catch more and solve more misdemeanours or crimes? In other words there are more unsolved ones because of the lack of personnel.

Hon. Mr. McMurtry: No. I'm saying—there are some rather interesting statistics about it and I don't have them with me—for every additional police officer who is involved on the street, if I may use that colloquialism, he or she is going to produce a certain, specific number of charges every year. It's quite a large number and those charges have to be processed by the courts. So you have a much greater volume of work going through the courts and of course some customers ending up in correctional institutions. So all we're saying is that every time you increase your police forces you are going to increase the number of cases that are going to go into the court system and the number of people

who are going to be candidates for the correctional system.

Mr. Kennedy: That's logical.

Hon. Mr. McMurtry: But the emphasis in the community has been on what we say is the front end of the system, the police officer in the street, rather than on the other critical elements, namely the court resources.

Mr. Kennedy: Disposition of the cases.

Hon. Mr. McMurtry: Disposition, yes.

Mr. Kennedy: What the public sees, of course, is the first part, and after that it's lost somewhere along the line insofar as the public eye is concerned.

[12:45]

Hon. Mr. McMurtry: That's right; and of course what I say over and over again too is that the public pays lip service to a good administration of justice, a good court system, but unfortunately the great majority of the public really don't think it has any direct relationship with them. Because most people, of course, not only never expect to be in a courtroom, they fervently hope they will never be in a courtroom. So the need for resources in this area doesn't have the same appeal as it does, obviously, in relation to education, health and other social services.

The point I attempt to continually make is that the community as a whole really hasn't given the administration of justice as high a priority as it deserves. Those who are elected to serve the public generally reflect the attitudes of the public in this respect, which is quite understandable; and I suppose generally speaking it is desirable that the elected representatives reflect the views of the public. But the result of this has been that traditionally allocation of resources for justice has been given a low priority by most governments almost everywhere. To put it in rather blunt terms: Building courthouses doesn't have very much political sex appeal.

Mr. Kennedy: What I really wanted to ask about, Mr. Chairman, was the small claims court situation in the Peel region. I understand it is taking up part of the library in the county courthouse, and that some additional space in the former post office building is available and is obviously needed. This space is available in the south end of the county. I suppose it isn't that there are any more small claims cases in relation to population, but by virtue of population more of them

are in the south, whereas the hearings are now held in mid-county, towards Brampton.

So I was really wondering what the situation is there. Having heard from the second division court people as to the seriousness of the situation, can you comment on the possibility of alleviating this?

I realize Government Services are responsible for the leasing of space and I think we touched on whose budget the funds come from. Did the Attorney General formerly do their own leasing and is there a problem of communication here; or is this a problem of funding, does it boil down to that? Whatever it is, can we get this going and alleviate the situation in Peel?

Mr. Wright: Mr. Kennedy, I believe there are perhaps two problems. As far as the operation of the small claims court offices is concerned—the clerks and bailiffs—they basically operate as a private enterprise system and they are responsible at the moment for their own accommodation.

With reference to the actual trying of the cases, we provide the courtrooms and so on for the trying of the cases and I know there is a shortage of courtrooms in Peel. Perhaps with the construction of the new building, which will provide some additional space for us in the present county building, we will be better able to find appropriate space for the hearing of small claims court matters.

Mr. Kennedy: Are you able to comment on the need or the desire by the people in Peel to acquire this additional leased space in the former post office in Cooksville? It seems to me they were very knowledgeable of the fact that new construction is under way, but as I understand it I don't believe they were of the view that this would accommodate these needs. It was a new registry office needs, wasn't it?

Mr. Wright: As far as additional space for the operation of the small claims court offices is concerned, that's basically the responsibility, at the moment, of the clerk and bailiff.

Mr. Kennedy: It isn't the office I'm speaking of, it's the court situation.

Mr. Wright: The actual hearing of the cases?

Mr. Kennedy: Yes, the space for the hearing of the cases.

Mr. Wright: We'd be glad to look into that situation. It's the first time I've heard about that specific problem.

Mr. Kennedy: Okay, fine. If you could do that, thanks.

Mr. Lawlor: In previous votes we have canvassed numerous possibilities as to how the present critical situation in the courts can be alleviated. I know the Attorney General and his staff are preoccupied, as they must be, to avoid criticism and to carry out their mandate to take every avenue possible for relief. A number have been mentioned, one this morning, that would make enormous inroads into that backlog; and others have been mentioned in the course of the estimates.

I have listed 29 different possibilities while preparing for these estimates. I have no intention of going over all of them. Some of them have been dealt with.

One of the things, if I may revert to Peter Rickaby's statement—this is page 22—he's talking about long trials.

"The second unintentional off-shoot of the present system of Legal Aid is the"—it doesn't apply to Legal Aid exclusively but to others too—"is the opportunity afforded the wise criminal to delay the trial of the defence by months or years by delaying the retention of counsel and/or by discharging him close to trial time."

Even the dumb criminal can play this game. He doesn't necessarily, as I say, have to be under Legal Aid, it's a game that can be played and has been played.

What about that aspect of tying up the courts, discharging the lawyer at the last moment? Have you any thoughts as to the way you might tackle that problem?

Hon. Mr. McMurtry: You mean last moment discharge of lawyers? I don't have any solution to that.

Mr. Lawlor: Some judges have.

Hon. Mr. McMurtry: Well, I don't think you can impose a lawyer on a client, or vice versa.

Mr. Lawlor: Nor do I suppose you can, as they used to do in the past, simply say we're going on with the case. There was a certain judgement on this in the Supreme Court.

Hon. Mr. McMurtry: That's right.

Mr. Lawlor: Another area which we touched upon previously, but which should be mentioned in the estimates—well, I don't want to disillusion you, but here comes that paradox. Taking into account the population

increase—and by the way Peter Rickaby constituted himself as a fairly shrewd sociologist in the process of these sometimes cryptic and often pointed remarks, he says there isn't a population increase. You hear that very often, that it isn't a population increase that has made that backlog, although the appointment of courts and judges is not a question of being commensurate with population increase, that's not the crunch here.

Nor does he seem to place a great deal of emphasis upon increased law enforcement, more police laying more charges. That again doesn't seem to be—just on that—

Hon. Mr. McMurtry: He, of course, is entitled to his own view. It's one that actually was of some interest, but it may not be the last word on the subject.

Mr. Lawlor: Well, if you have the final word—not a final word, a tentative correction—I would be interested in hearing it. You think it is a population increase?

Hon. Mr. McMurtry: I think that is part of it. Mr. Callaghan reminds me that that was the view of the Law Reform Commission.

Mr. Lawlor: You would argue then, secondly, that more efficient law enforcement that has more impact is also a factor? The police arrest and charge more people than they used to?

Hon. Mr. McMurtry: Well, there are more policemen.

Mr. Lawlor: No, no, that's not the point.

Hon. Mr. McMurtry: I think it's the point.

Mr. Lawlor: Well, of course, if there are more policemen, I suppose they lay more charges and they get themselves a promotion that much sooner.

Hon. Mr. McMurtry: That was the point I was making earlier; not that the individual policeman has laid more charges than he or she did in the past, but that there are just simply more police officers.

Mr. Callaghan: Over 400 policemen went into the system last year. Twenty-one people went into the court system. That's bound to have an impact.

Mr. Lawlor: This is quite aside from the estimates; it's quite an insensible statement I'm about to make. Did you, Callaghan, with that name of yours and you, McMurtry, share my anarchic Irish tendencies?

Hon. Mr. McMurtry: What's an anarchic Irish tendency?

Mr. Lawlor: Well, they just don't like authority very much.

Hon. Mr. McMurtry: We don't like anybody else's. We sometimes like our own.

Mr. Vice-Chairman: That's truly Irish.

Mr. Lawlor: The curious thing is that the Irish make the best policemen.

Hon. Mr. McMurtry: Sometimes the worst.

Mr. Lawlor: That's because they don't arrest people. They tap them on the head and—it is called diversion nowadays.

There is just one sentence I would like to quote from Arthur Martin, Mr. Justice Martin. He gave a talk to the John Howard Society in May of 1975. The talk is called, Criminal Justice, Everybody's Responsibility. And Martin is a man of parts, we all agree with that, with a profound insight into—he represented criminals for many many years in an exemplary way and he quotes from Radzinowicz—I can't pass this over by the way, he's quoting from Leon Radzinowicz and saying: "It sounds too simple, lies too much in the hands of millions of ordinary people. It is simply to reduce the opportunities and temptations, and in particular to make property of all kinds less accessible to theft."

It really irritates me on occasion with respect to shoplifting charges that the major supermarkets of this country display their goods prolifically, lay it out in front as a temptation to a wide population, won't hire adequate staff to supervise it because it's all on a shelf-shopping technique advertised luxuriantly in order to attract people to the premises and then slap charges on them; and increasingly of recent date insist that the criminal process be their—subsidize them, for their failure to look after their own enterprises.

It has to do with a venal aspect of advertising, inducing people who can't afford to buy things to enter into the premises—because they feel that they have as much right to goods and services as anybody else in this population and are in a position of relative poverty with respect to them—to pick the odd thing up.

I don't condone the picking up, I just simply say that I don't condone the merchandising techniques either. And that a good many of these charges should never be laid.

If the stores can't look after their own proper functioning, that's their business. And they are loading the criminal process with these garbage charges.

Hon. Mr. McMurtry: Mr. Chairman, perhaps on that note of classic socialism we should adjourn for the weekend.

Mr. Vice-Chairman: That seems to be the response, so the committee will adjourn until—

An hon. member: You have an engagement on Tuesday night? Am I right?

Hon. Mr. McMurtry: Yes, I had an engagement that I—

[1:00]

Mr. Lawlor: No, I'm afraid at this time as chairman I can't agree. I am getting a certain amount of flak for these times off.

Hon. Mr. McMurtry: You mean, from whom? The people who are not here today?

Mr. Lawlor: I won't name names.

An hon. member: Could you switch Monday night for Tuesday night?

Hon. Mr. McMurtry: The House doesn't sit Monday night.

Mr. Lawlor: If you really have to get away, Mr. Attorney General, I mean I'm the last one in the world to—but we have been very open-minded both ways, you know, and when I wanted time you gave it to me and the other way around. But we would like to get these things finished by Wednesday and if other members come in here on Monday I can see the time just going out from under us.

Hon. Mr. McMurtry: The House isn't sitting Monday night, eh?

Mr. Lawlor: No, it doesn't sit Monday.

An hon. member: Not unless it's going to be a departure this week because it is a short week.

Mr. Vice-Chairman: It is not scheduled to sit Monday night. It is scheduled to sit Tuesday night, and Wednesday night, if necessary.

An hon. member: How about Tuesday morning?

Hon. Mr. McMurtry: Caucus.

Mr. Vice-Chairman: Well, might I suggest that if the minister is so disposed he could approach the committee on Monday when other members are present to see if they would hang fire? There's a chance I suppose that we might even be finished with these estimates by Tuesday at 6.

Mr. Lawlor: That isn't possible.

Hon. Mr. McMurtry: Why wouldn't we finish by Tuesday? We've really been very thoroughly reviewing the estimates, which is as it should be, which we've welcomed.

Mr. Lawlor: There are a few more sections.

Hon. Mr. McMurtry: It was a thorough, perceptive and articulate review.

Mr. Vice-Chairman: Maybe the chairman could take it under consideration over the weekend.

Hon. Mr. McMurtry: We can take the remaining votes right now, and end on that note of collegiality.

Mr. Lawlor: You know what I think about collegiality.

Mr. Vice-Chairman: Is it acceptable then, Mr. Chairman, we adjourn until Monday after the question period?

Mr. Lawlor: We will discuss whether or not we may sit Monday night when other members of the committee are here, as to what their disposition is.

Mr. Vice-Chairman: Adjourn until Monday after the question period.

The committee adjourned at 1:05 p.m.

CONTENTS

Friday, November 5, 1976

Legislative counsel services programme	S-2849
Courts administration programme	S-2850
Programme administration	S-2850
Adjournment	S-2866

SPEAKERS IN THIS ISSUE

Breaugh, M.; Vice-Chairman (Oshawa NDP)
Kennedy, R. D. (Mississauga South PC)
Lawlor, P. D.; Chairman (Lakeshore NDP)
McMurtry, Hon. R.; Attorney General (Eglinton PC)
Ministry of the Attorney General officials taking part:
Callaghan, F. W., QC, Deputy Attorney General
Stone, A. N., QC, Senior Legislative Counsel
Wright, B., Assistant Deputy Attorney General, Civil Law



Legislature of Ontario Debates

SUPPLY COMMITTEE — I

ESTIMATES, MINISTRY OF
LABOUR

OFFICIAL REPORT — DAILY EDITION

Third Session of the 30th Parliament

Monday, November 8, 1976

Speaker: Honourable Russell Daniel Rowe

Clerk: Roderick Lewis, QC

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CONTENTS

A list of the speakers taking part in the debates in this issue of Hansard appears, in alphabetical order, at the back of this issue.

Daily contents of proceedings also appears at the back of this issue. Reference to a cumulative index of previous issues can be obtained by calling the Hansard Reporting Service indexing staff. (Phone 965-2159)

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LEGISLATURE OF ONTARIO

SUPPLY COMMITTEE

MONDAY, NOVEMBER 8, 1976

The committee met at 3:15 p.m.

ESTIMATES, MINISTRY OF LABOUR (continued)

Mr. Chairman: I now see a quorum.

On vote 2202, industrial relations programme; item 1, programme administration:

Mr. Bounsall: Thank you. I don't have any great detailed remarks on the programme administration except to elicit some information from you with respect to what may be just a shuffle in the entire programme.

I see the estimates for the programme administration have jumped appreciably and the actual expenditures in the other items have both dropped. Particularly the Labour Management Arbitration Commission has dropped from the expenditures of 1974-75 and the 1975-76 estimates dropped well below both of those figures to \$169,000. Is that simply a reshuffle of moneys from conciliation and mediation services and the Labour Management Arbitration Commission up to the programme administration? What has taken place that the programme administration has increased so drastically and yet those other areas, both rather key, have dropped? What is the reason for that?

Mr. Armstrong: Mr. Webster or Mr. Morgan may wish to speak to that, but one of the reasons is that the STIR programme for students training in industrial relations is included in programme administration. The other is that the construction industry review panel is included in that item and the final is the Franks commission into the construction industry. All of those are included, as I understand it, in programme administration. I think that accounts, in the main, for the difference in the amount from last year. Is that correct?

Mr. Webster: Yes, the constraints to the mini-budget affected the Labour Management Arbitration Commission by some \$83,000. We reduced the arbitrators' fees under The Hospital Labour Disputes Act by that amount.

Mr. Bounsall: There is actually a fee reduction paid to arbitrators for their work performed under that?

Mr. Webster: There was a reduction in the estimated fees to be paid, yes, but not the actual payments. We found that there was a surplus of money there.

Mr. Bounsall: In past years? We will get into the conciliation and mediation estimate as well when we come to it. Under the programme administration, is simply the one student programme included there? Just the STIR programme?

Mr. Armstrong: Just the STIR programme.

Mr. Bounsall: The other programme in which you were surveying the construction industry with respect to certain practices will occur under the construction industry, or the industrial relations section?

Mr. Pathe: No, that's Construction Industry Collective Bargaining Commission. That's under programme administration.

Mr. Bounsall: You had another student programme? And you are saying that is also under here?

Mr. Armstrong: No, the other student programmes are under another vote. What vote are they under?

Mr. Webster: They are under vote 2201, administration. Last year the STIR programme was under the administration programme and we decided that it should be carried on as an ongoing programme so then it was transferred to industrial relations.

Mr. Bounsall: I gather then that you found the STIR programme sufficiently useful that you have managed to convince the government that this should be an ongoing programme, without any problem in that area.

Hon. B. Stephenson: Yes.

Mr. Bounsall: Well, that's useful. Perhaps when we get to the construction area vote I think I can probably keep myself in order with the chairman and perhaps discuss that

other student programme which occurred there when we get to that vote. I am sure I can.

Hon. B. Stephenson: That's not under construction safety.

Mr. Bounsall: Well, under employment standards, or whatever. I'm sure I can remain in the chairman's good books to discuss some of the details of it, having missed it under vote 2201, item 1. That's all I have under programme administration.

Item 1 agreed to.

On item 2, conciliation and mediation services:

Mr. Bounsall: Here I find the additional explanatory material handed out with the preamble to The Labour Relations Act stated, in the very first paragraph again, that the industrial relations role is to further harmonious relations between employers and employees by encouraging the practice and procedure of collective bargaining between employers and employees.

I find that rather ironical that that should be presented so clearly again in this section, when there are so many parts of The Labour Relations Act that need amending to give real effect to the fact that the government is encouraging the practice of collective bargaining between employers and employees.

There are many areas that were untouched when the Act was last amended that certainly should be amended and continued forward. For example, all the exceptions under the Act—none of the exceptions virtually were touched at the time of the last amendment. It's now some 15 or 16 months since that Act was amended and none of the changes which you would make to remove exceptions under this Act would affect those other sections of the Act, the Act that was changed. So it isn't a change to an existing programme, changed so short a time ago as 15 months, that you would have to monitor. It still is a mystery to me why some of those exceptions in that Act remain, in terms of who cannot have the right to collective bargaining, who do not have the right in this province to form together under The Labour Relations Act and make a contract with their employer.

One of them is that group of workers in the horticultural area where, in many of their work places—there's a big establishment in Brampton where they are industrial workers in every sense except they happen to work under glass. If there are small groups of horticultural workers who do not work in

what should be very similar to an in-plant environment, industrial environment, perhaps you could make an exception to that for those groups of workers. Not that I would feel that it's necessary at all, but certainly we have groups of workers who are denied the right to organize, such as horticultural workers in industrial-type settings, which really cries out for amendment.

I quite realize that for full-time agricultural workers there's always been said to be some problems in giving them the right to organize. You've moved further, I think, in terms of part-time agricultural workers having rights than you have under full-time agricultural workers.

(They may be difficult to organize; I don't know who would want to attempt it. They may be a group by themselves that would never come together. But why they should be denied a very basic right, as defined by McRuer, the right to organize, is a mystery to me, as well as the one group of workers which I talked about at length last year in the estimates, the domestics, who are employed for some long hours and under conditions which we don't know very much about. Hopefully your research study will tell us a bit more than what we know about those groups of workers.)

But here again, why is this group of workers denied the right to strike? There seems to me no reason at all for that group of workers being denied the right to strike. Again, they're a group which would be hard to organize. If I was handed the job as an organizer to go out and organize the domestics in Ontario, I wouldn't consider it one of the best assignments I'd ever had I'm sure. Neither would any of us here. But to say that as a group that they cannot do that—and that's gone on for years—simply gives the lie to your oft-quoted statement that you're encouraging the practice and procedures of collective bargaining in this province. You're not encouraging it at all.

[3:30]

In terms of organization—and, Mr. Chairman, I'm trying very hard to stay away from those changes which would be in the administrative jurisdiction of the Ontario Labour Relations Board. They come under a separate vote and I'll take the topics relating to them when we get to them.

In terms of organizing you still have, within your Labour Relations Act, sections which certainly are problems and which discourage the practice of collective bargaining. They certainly discourage groups of workers

from coming together to form a union and bargain collectively with their employer.

I refer to the round robin petitions, they are very common in the industry. After a group has the required percentages for a vote or has the required number signed up for certification, a petition goes around—it is unsigned so they don't know who is circulating it but the suspicion of the workers is that it's top management people—asking them simply to sign their name to the petition, stating that they've changed their mind and do not want their vote counted. That's a very threatening experience.

It's hard enough for a worker to get a card signed in terms of joining the union. I've often heard it described as easier to buy a house than to get a card signed to join a union. You have to pay \$1. You have to have it witnessed; you sign it yourself and it must be witnessed that it's your signature and so on and so forth. That's a complicated procedure—wiped out by a management-inspired petition, unsigned usually, asking you to simply deny that.

I'm telling you, if the vote's going to be close, if the workers are not absolutely sure, it's usually rather a fearful step for many of them; certainly it's an uncertain one as to whether or not to join with their brothers and sisters and form a union. They get this petition around. They have the feeling that should the certification fail and they no longer have a representative body which could speak for them, the list of who signed and withdrew their names is going to be scrutinized. Anyone whose name is not on that may have some sort of penalty against them, right up to the point of being let go. They've got no protection against being let go. To have the process of signing a card to join a union, having it witnessed and paying the dollar, negated by a simple signature is an area which cries out for removal from the Act, stating that it is illegal. Certainly that would encourage the practice and procedure of collective bargaining between employees; it would help to achieve that first contract.

Again, I could ask the officials when we get to the Labour Relations Board vote just what effect the dropping of the percentage from 65 to 55 has had on certification. Here again, there simply continues to be no justification for the percentage for automatic certification not being a simple majority of 50 per cent plus one. Other provinces do it and in a section of the Act, for example, if construction employers want to join together to form a bargaining unit themselves, all that's required is 50 per cent plus one,

a bare majority. On the one hand, if a group of employers want to form a bargaining agency for themselves, it's 50 per cent plus one; for employees we're still stuck at 55 per cent.

That basic inequality, which is all it is, shouldn't continue to exist. The drop from 55 to 50 may not result in many more certifications being won automatically but why should it be 55? There's just no rationale for it, particularly when you have an inequality right in the Act with respect to employers and employees.

In terms of encouraging the practice and procedure of collective bargaining, the ministry has done nothing about outlawing strikebreaking. This is the only way when a labour relations situation has deteriorated to the point where a strike has to take place—in an industrial field that worker can, in fact have any clout—finally to withdraw his services.

In Ontario, we allow their positions to be taken inside that plant by strikebreakers and make use of the police to ensure that they may get in and out. I'm telling you, there is no way in that situation that you can say that that environment is encouraging rational collective bargaining between the two parties—when the jobs of the workers on strike are allowed to be taken by strikebreakers and the force of the law is used to ensure that those strikebreakers can come in and out of wherever the strike is on.

In terms of the collective agreements, which should be reached between employers—and the relations we all hope exist between employers and employees under a contract, there should be all kinds of discussion on all fronts continuing over the conditions and all aspects of the employment within that plant. In that regard, there should be an automatic contract opener for those clauses not covered by the contract. Particularly technological change. If a technological change takes place, after the contract has been signed—or a proposal is brought in—they should be able to open up the contract to discuss that technological change. In the absence of that right in the contract now, the employer just charges ahead, gets a contract signed, then proceeds to introduce all sorts and forms of—can proceed if he wishes—to introduce all sorts of forms of labour-saving devices. If they were allowed to open the contract over at least that point and that could result in a strike if again the talks resulting from it broke down you would have, and be encouraging, consultation between employers and employees over that particular

change, rather than the confrontation attitude which arises now.

Changing The Labour Relations Act to allow a contract to be opened for technological change does not mean that we are encouraging strikes to occur over technological change. But because that possibility exists, you have consultation taking place over it. Certainly that's the type of atmosphere that one wants to encourage in the province of Ontario—management and labour sitting down and talking to each other about the things which mutually and jointly affect them.

Those firms which have had good labour relations over the years, or settle with only a minor number of days lost in strike situations, like the UAW is doing with the "Big Three" at the moment, are, by and large, companies who do do a lot of talking with their union counterparts.

The way to achieve industrial peace is to keep those lines of communication open and have a more thorough understanding—one side is with the other all the way along. Not allowing a contract to be opened for technological change, simply encourages confrontations over technological changes, rather than sitting down and working the problem through.

In that regard, I notice from the minister's opening statement, and it's no surprise to me, because of the mediation and conciliation branch and their methods of operation in maintaining labour peace in the province, that the number of man-days lost to strikes is continuing to decrease in this province. I just would ask of the ministry that some time under this vote they will tell us what percentage of contracts were settled in this past year without resort to strike. I know that in a 10-year average, not counting last year, I believe it was 97 per cent. Last year it was 95 per cent if I recall; in 1974 it was 95 per cent. I would guess that figure is creeping back up to the 97. Or it might even be that 98 per cent of all contracts are settled without any resort to strike—I would like to see that figure.

In terms of encouraging—again using your words—the practice and procedure of collective bargaining between employers and employees, it would be in your best interest, Madam Minister, and that of your ministry and labour peace in this province, if you did install the first contract provision for those groups of employers and employees who are having great difficulty reaching a first contract. The trend over the years has been that it is the small firms that have gone on

strike, and the vast majority of those in any given year are those trying to achieve their first contract. There is a lot of inexperience on both sides of that bargaining table.

Once that agreement has been reached, you achieve a fair degree of labour peace at that particular situation. After a year of operation, management finds that unions weren't as threatening as they thought; they find that there is a certain amount of input and helpfulness in terms of the running of the company. It comes from consulting the workers from time to time.

To sit back and let so many first contract situations degenerate into the bitter situations that result—I mention specifically the K-Mart situation in Windsor, now into its 24th week, where the only difference separating them—there's not much argument on salaries and benefits—is the very, very basic one of job security. This firm feels that it still wants the right to fire an employee who has been an employee of theirs for 25 years. If they can't determine within 25 years that an employee is not valuable and should not stay with their company, then management is extremely inefficient.

In fact, it encourages efficiency. They hire an employee and under the union security clauses, they will have a certain length of time in which to determine whether or not that employee would be useful or not to their continuing operations. That's the type of analysis that should be being done by any company wishing to achieve efficiency from their work force. It forces them to take that responsible kind of management role in the initial stages. And once having got by that point, then they can most certainly be fired for cause. I don't know of any bargaining agent who is going to go in and represent a worker who has blatantly not performed—blatantly not performed—because the onus comes on the employee through his union to live up to his particular work obligations.

Why should union security in this day and age be the stumbling block it has proven to be—as in the K-Mart strike in Windsor, and in various other locations across this province? Where it does it indicates the Neanderthal thinking of the management. By and large all of this could be solved, Madam Minister, by the establishment of a first contract in which dues check-off and union security would be one of the two basic clauses thereof.

[3:45]

The minister, in her opening remarks, indicated that she would like in the course of these discussions some comment on the bargaining situations in Ontario, and how they

might be changed. One of the things which were got into briefly in her opening statements was the industrial democracy concept. Well, in many ways that is something which we have seen work in some other jurisdictions. It is one we would be interested in trying.

I am sure you see the same problems with it that I do. If one could achieve industrial democracy overnight, I think from the workers' point of view they might be able to buy that, something like the way India was given its independence with virtually no preparation. They just all of a sudden jumped into it back in 1947. If that could be achieved in the industrial relations field, there would be fewer problems, I would think, from the workers' point of view, in looking at that concept.

What they fear most is the transition period when they are going from the situation of the present confrontation, possibly ending up in a strike situation, with the collective bargaining that we have, through to one where they in fact have a great deal of the say in the operation of that company. That is going to be a rather slow process. I can't quite see how that could be done overnight; let's lay aside for the moment what the management, the present management, of the company says about that. They certainly aren't in favour of it either; they are very suspicious of it.

Leaving that aside for the moment, there would have to be a slow transition period getting from the current system to the industrial democracy concept that was mentioned. What the workers fear in that is that whole transition period. What is their position in the first year of a maybe five- to 10-year transition period where they don't have any real say in the operation of the company?

They may have, as the first step, a couple of representatives on the board. They fear greatly the co-option of those members who are placed on the board. They still don't have any say about the election of their foremen from among themselves. All they can see for the first few years of it is a co-option of themselves as the old collective bargaining and old structures they've had are slowly disappearing.

So you have from the workers' point of view an innate reaction that it's not going to work and by and large when you query workers as to why they say this is not going to work they say it's a fear of the transition period. They say: "Look, if we could achieve tomorrow the type of company structures that pertain in Japan, in Germany, some of the other countries, we would buy that, but how do we get there? How do we get from today to tomorrow with no time in between?"

They are quite right; there would have to be a transitional working-in period. And it is that period where they feel—probably rightly so—they are going to be very weak, where they don't know exactly what their positions are as their traditional collective bargaining is being phased out before they have any real input in the management of the company.

On the employers' side, the very thought that under industrial democracy, the decisions of the day-to-day workings of that company, certainly in the working conditions area, will be made by the actual workers, is complete anathema to them. They just can't comprehend that whole idea, they simply react very emotionally against it. I feel it is a very stupid reaction.

I was chairman of a department with some 40 to 50 employees in it and one can most easily proceed with it by delegating every single bit of authority possible. Let someone else do it. They are much happier doing it; they are seeing themselves as playing a role in the management. There is no disagreement with decisions that are made because they've been involved in the decision-making process. I can tell you it's much easier from management's point of view to be able to operate in that fashion. But you don't have people in control of industry now who are willing to take the chance at the moment to say: "Okay, this is what we mean by industrial democracy. This means that control here, here and here is being passed over to the workers that you have employed through your personnel branch in the company and that type of decision will be made by those workers who you've employed, those workers for which you have given the guidelines and qualifications for that employment." Even though you've done all that and have an employee you've decided you want, you're not going to let that employee make any decisions. I can't quite understand that, but that's the side which they fear.

I think it is an irrational response to it because it certainly eases their problems rather than multiplies them. It means they would spend a lot more time in consultation than what they might have before, rather than being at a desk job or what have you or in a position where they are fighting their employees, they would be talking with them. Though maybe they wouldn't spend much more time actually dealing with employees, it's just a different light in which they deal with them. They simply seem to fear that.

What I'm saying is that I think in an intellectual sense it would be very nice to have industrial democracy. I just don't see

how we can jump from the system we have now into that. The transition is feared by the workers. The very concept itself is feared by the employers. We're a long way from it as well. Under that system I would envisage the same thing happening as pertains in those other jurisdictions where the employees actually elect from themselves their first rank of management at least, that being their foreman. We're a long way from that in this past year, judging from a decision of the Labour Relations Board.

Foremen in this day and age in a large plant are the most disadvantaged workers completely in the plant. They have no protection from a union or from the company laying them off at any time, or in their working conditions or their hours of work. They had a Labour Relations Board decision saying that foremen themselves couldn't come together to form a bargaining unit with their employers. The Act should be amended again to include that level of supervision quite clearly as a group eligible to bargain as the BC Act and the Manitoba Act allows.

What I'm saying in response to the minister's opening address is that I do not easily see how we can get to your other forms of labour relations that you hope you might have a good discussion on in these estimates, except to indicate that there are difficulties with it, I would think insurmountable at the moment, to change to an industrial democracy model here in North America.

Leaving that point aside for a moment, though I'd be interested to hear the minister's comments and the staff comments in this area, the Franks commission has reported on industry-wide bargaining in the construction industry. There was a problem with the ironworkers this year, as you very well know, in the administration of the contract they had on an industry-wide basis across Ontario. I tend to favour wider bargaining units, partly because of the problems that the ironworkers have. I am getting letters now, as I mentioned in my opener, that indicates that the rest of the construction industry by and large is reacting very strongly now to any sort of an industry-wide or province-wide or larger area bargaining situations. I've received letters now from various construction trades following their conventions, indicating what their resolutions were in this regard and about various labour counselling. Hamilton was the latest one that came to my attention, that is, as a construction labour council. That is sad. They want no part of it. I'd be interested in hearing from the ministry and your officials now what your feeling is, particularly

in regard to the problems which arose with the ironworkers under their particular problem.

I think we are going to have to tread rather carefully in this area. I know that we have achieved some district bargaining heading towards province-wide bargaining with hospital workers in Ontario. I think that's a solution there. We certainly have it with respect to the provincial police, and in talking with the provincial police, they don't see any difficulty with it. They are happy with it. They don't see any disadvantages in having the same rate of pay, whether they live in Toronto, Windsor or Sault Ste. Marie.

It's always been a bit of a worry in my mind that in areas so diverse as those three I have mentioned, and in Ottawa to add a fourth, the employees may feel there should be some differences in the rates of pay and benefits. There isn't in the provincial police in their bargaining, and in talking to them they have indicated they are happy with the situation. I think this is the situation that would emerge as we form more of these wider bargaining units. That's a good concept, I think, to have established. I would hope that it might, although they are fighting the suggestion of it rather strongly as they always have, pertain to the teachers in Ontario, as well.

There are a few more willing to consider that thought, but by and large they have been rejecting it right along and still do. I still think it is one well worth trying. I'd be interested to see what problems you foresee with it and, as I said, particularly in the light of the ironworkers situation that arose when they tried it in this past year. As a result of the problems that arose, all of their officers were defeated when they stood for re-election, because of the contract—

Hon. B. Stephenson: All of them?

Mr. Bounsall: —in the districts in which the problems arose.

Hon. B. Stephenson: I hadn't heard that.

Mr. Armstrong: I didn't know that.

Hon. B. Stephenson: I am interested to hear Mr. Bounsall's discussion about the potential for industrial democracy in North America. I agree that there are major problems and I agree that it would be much easier if, indeed, overnight we could legislate to move from here to there without any discussions at all. However, we have felt that it was wiser to involve both management and unions, employers and employees in discussion about potential implementation of

even specific factors utilized in other jurisdictions which seem to be reasonably effective in producing increased harmony.

I can't accept your sweeping statement that all labour unions are opposed because of certain ideas and all employers are opposed because of other ideas. During this past year I have had opportunity to meet with many representatives of both sides, if you like, of this question and find that there are some vigorously opposed for some of the reasons you mentioned. There are some who are very much less opposed. In fact, they would welcome the idea of moving gradually into this kind of programme. I am encouraged by the very positive reaction of many of them that they would seriously consider some activity in this direction which could lead to an improved situation.

One of the things I am most encouraged to find is that both parties to collective bargaining in Ontario, specifically, seem to be concerned about maintaining a confrontation position on many issues. They would be interested in one or two of the proposals or suggestions we have made such as mid-contract mediation or, if you like, discussion with a neutral chairman being of assistance. [4:00]

In one of the very largest industries they are moving in that direction at this point. They don't have a programme established at the moment but they are certainly, I think, both positively in support of the idea and are attempting to become involved in that kind of activity.

I don't share your discouragement. I don't think we are going to remove all of the objections to such concepts overnight. I would feel that your pessimism is probably realistic in terms of some of the people you have discussed it with but I don't think it's an impossibility. I don't think the problems are insurmountable in spite of the fact that such a perspicacious individual as you, with as much experience as you have had, believe that they are insurmountable at the moment. I think that perhaps there are solutions.

Mr. Bounsall: I didn't say that. It's the logical conclusion to the collective bargaining that has taken place over the years. It's the logical conclusion when that has gone on for 20 or 25 years—maybe there has been the odd short-term strike but they realize why the strike took place and so on—to move rather smoothly as the years go by into an industrial democracy type of set up. It is the logical extension of the collective bargaining they are doing now but whenever I mention it, I sense

they are willing to consider it and I would think they would be willing to consider proposals in it but on the labour side what they fear is the transition period. If one can work out a phased process by which what I would call the transition period is not a threatening one—that would have to be very carefully thought out step-by-step legislation—

Hon. B. Stephenson: It would have to be thought out step-by-step for each situation as well because they are not all exactly the same.

Mr. Bounsall: Perhaps amendments to the Act which would allow various routes to be taken in terms of how one arrives at a decision rather than simply a complete change to the Act, therefore going down various steps toward it, would work. I see it not so much as wanting always to retain and maintain the confrontation process but as not being able to see clearly what intermediate position they would be left in, fearing a loss of ability to confront where it's necessary and without any counter-balancing benefit coming while they are on the way to what they would say is true worker control or a large degree of worker input. If somehow that could be worked out, if it could be phased—it would be an interesting challenge to all those involved in the labour field to see if one could achieve that or some form of it—if one could achieve that, it would certainly be worth trying, certainly worth working on. We would all watch it with a great deal of interest.

Hon. B. Stephenson: We agree that it's worth working on and we are trying. I was hoping to have some figures for you about the success rate in terms of successful collective agreements within the first six months of this year. The figures I see there don't encourage me particularly and I am not sure that they are specifically accurate because it looks as though about 10 per cent were—it's primarily because of the teachers' withdrawal and the paper workers but it looks as though about 10 per cent of the agreements were not achieved without some kind of vigorous work stoppage.

Mr. Bounsall: In the first six months?

Hon. B. Stephenson: In the first six months, yes. It was approximately six per cent in 1975 from the figures I have here so 94 per cent, obviously, in 1975 were successful—in that ballpark for the first six months. Hopefully, the second six months will be very much better because it was an unusual situation actually in the early months of 1976.

Mr. Bounsall: It will probably even out a bit—

Hon. B. Stephenson: Yes, I would think so.

Mr. Bounsall: —up to 94, 95 or 96 per cent.

Hon. B. Stephenson: I think it's the fact that we don't seem to be moving beyond that 94-95 per cent which is a little bit disconcerting.

Mr. Bounsall: Your unopposed first contract would help in that regard considerably.

Hon. B. Stephenson: As far as the Franks commission report is concerned, I should let those who are much more knowledgeable about the intricacies of the problems involved discuss it. Both the deputy and the assistant deputy have been deeply involved in an examination of the Franks proposals or recommendations and there are inherent problems. There isn't any doubt about that, and the situation of the ironworkers this year, which you brought to our attention, really crystallized that pretty clearly.

I share your concerns, I have to tell you, about the fact that there are regional differences within this province. Is there a problem in terms of recognizing those regional differences in terms of collective bargaining on a province-wide basis? Is it right to forget about them, to ignore them? Must one develop a structure which does take them into account? I think this is one of the problems.

Certainly, the original reports regarding the commission's work were somewhat more supportive of the idea that both parties to this were reasonably enthusiastic about going in this direction. We don't have all of the information as yet. There was a meeting just last weekend, I believe, from which I don't have a report as yet, which might change the complexion of that view quite dramatically as well. I'm not sure.

Would you like to say something about that, Tim?

Mr. Armstrong: Yes. Perhaps I can say it in a few words and then ask the assistant deputy minister, George Adams, to comment.

I don't think, Mr. Bounsall, the Lummus case is perhaps typical of the key problem. The Lummus case involved, as I recall, entitlement to travel time. Really it was a question that that case turned on the particular interpretation of that collective agreement. But the essence of the recommendation of the Franks commission is that there be single-trade, province-wide bargaining. Now, the advantage to that, in terms of administrative efficiency, is to reduce some 220 bargaining relationships down to some 20-odd, providing for common expiry dates and

thus reduce the potential for industrial conflict.

Mr. Bounsall: Could I interrupt? To about 20? You mean about 20 in each trade?

Mr. Armstrong: No, some 20-odd relationships—

Mr. Bounsall: Oh, each in a total province-wide—

Mr. Armstrong: —each being a trade—understanding, of course, that some so-called trades, like the carpenters, really have three or four subtrades; the resilient floor workers and the millwrights and the ordinary carpenters and there's a fourth category, acoustical drywall. But there would be about 20-odd relationships—

Hon. B. Stephenson: Twenty-six.

Mr. Armstrong: Twenty-six as the minister reminds me, to be exact, reduced from 220. So they would be more manageable numerically. The problems on both sides, of course, have to do with local autonomy. There are some very old and well-entrenched and proud and useful local unions around whose interests have become merged in the provincial organization that was created to bargain on their behalf.

The same may be said on the employers' side. There'll be less autonomy for the employers. These entrenched vested interests are naturally apprehensive about the effect of proceeding with province-wide bargaining. I think what has to be weighed is the efficiency that would be brought by a new system against the existing local rights to bargain in respect to local conditions. I think it should perhaps be added that single-grade province-wide bargaining doesn't necessarily, I suppose, mean uniform rates. It would still be open for the respective agencies on both sides to recognize rates applicable to particular regions. That could be reflected in appendices to the major report of the committee.

The proposal has much to commend it. There is some institutional opposition to it on both sides. I think it's no secret that we're attempting to get a pretty accurate reading from both the trade union movement and from employer groups as to how they regard the proposal. The provincial building trades council met at a convention last weekend. The assistant deputy minister addressed them. Have you recovered from your address?

Mr. Mancini: He looks all right.

Mr. Bounsall: That's how he got that dent in his chin.

Mr. Armstrong: After he left, my understanding was that they were to debate the question of the Franks recommendation and to make a determination in convention as to what they thought of it. The early, incomplete report is that there were some opposed and some in favour. Whether there was a formal resolution on that, we're having some trouble determining, but we're working on it. You may have more up-to-date information on that than we have.

Mr. Bounsall: I'd just like to comment. The construction industry having a province-wide agreement, with perhaps districts and district differences in pay rates depending upon the circumstances, seems so logical because construction workers are so mobile—they have to follow the big job sites, and the companies are quite mobile. They have a business office somewhere and their other place where they're operating is where they're building, wherever the heck it be in the province. So it seems a logical step to move to. I suppose there may be some element of union elective office opportunism in some of the opposition to it—it's an issue that can be seized upon and used in an election campaign perhaps, rather than it being a real one in that sense—but there is some local pride in arrangements that have been worked out over the years, which is also quite real.

I wouldn't anticipate so much from the companies, but trying to look at it from the company point of view, I can't see why there'd be any problems.

Hon. B. Stephenson: For the same reason—there's a local pride in the arrangements which have been established and the relationships which they have established, which they think might be disturbed in some way.

Mr. Bounsall: I would think, apart from a certain loss of autonomy, that certain of those local arrangements, that have always existed in an area, could be accommodated within the province-wide agreement without that much difficulty.

Mr. Armstrong: Again, you referred to the fear of the unknown in the transition stage of any movement towards industrial democracy. I think there's an element of that in the proposal for single-trade, province-wide bargaining. The combatants really don't know what it may mean in practice. It's one thing to describe it on paper in rational terms, but how it affects their interests in practice is a

matter of conjecture, and I think there is some natural apprehension about a pretty fundamental change in the system that's operated for decades now without change.

Mr. Adams: It's interesting. The construction industry, to some extent, is proposing what really lies behind the Franks proposals. There were two consentaneous briefs, one from the Provincial Building Construction Trades Council, and the other from CLRAO, the employer organization, both saying we ought to move toward this provincial single-trade bargaining.

When you look at the bargaining history in the construction industry you find in 1969 there was something like 1.3 million man-days lost as a result of 49 strikes. At that time there were approximately 372 bargaining situations. By 1974, there were only 300,000 man-days lost in bargaining, and there had been a reduction in bargaining situations from 375 to 272, and strikes were down from 49 to 18.

I think they recognized that as they have reduced the number of bargaining situations, they've reduced the number of strikes and the number of man-days lost because of strikes. In 1975, it went back up to 49, but everybody had a problem in 1975 with the accelerating inflation. But, again, there were only 300,000 man-days lost in 1975, as opposed to 1.3 million in 1969.

[4:15]

So, what I am saying is there is some empirical evidence to justify the fact that as you move toward a decrease in the number of bargaining situations you sort of improve the health of collective bargaining. It becomes a more rational process and that probably is the basis behind the consensus that you see in the industry between management and labour.

Hon. B. Stephenson: I have never been able to get the percentage of agreements. Perhaps you would be interested to know that of the time lost due to strikes in Ontario during the third and fourth quarters of 1976, 47.5 per cent was a result of a paper strike. In the first quarter of 1976, 66.3 per cent of the time lost was as a result of a paper strike. So, the paper strike was responsible for a very large proportion of the problem in both 1975 and in the first half of 1976.

Mr. Chairman: Before we continue, I would just like to remind the committee that we do have a suggestion and a motion by Mr. Bounsall which was made on Friday

and which was carried by the committee that we would complete the industrial relations programme vote as well as the women's programme vote. We will complete both votes by 6 o'clock. I would just like to remind the committee of this.

I have the following speakers—Mackenzie, Mancini, and di Santo. Mr. Mackenzie first.

Mr. Mackenzie: I was wondering when you were talking about some figures, Madam Minister, if you have any figures on the number of agreements in the province awaiting a decision from the AIB and that are being delayed as a result?

Hon. B. Stephenson: I don't think so. Agreements which are being held up by a decision of the AIB?

Mr. Mackenzie: Well, they've gone to the AIB and they are stuck there.

Hon. B. Stephenson: The agreements have been reached but the decision of the AIB has not been rendered as yet?

Mr. Mackenzie: Right.

Hon. B. Stephenson: No, I don't at the moment. As I think Mr. Skolnik suggested on Friday, we don't have the information about the numbers which are submitted to the AIB. We only know the results of those that are submitted to the AIB.

Mr. Mackenzie: I hope I'm not out of order on it, but I raise it because in checking over the weekend I find the reason it seems like a relatively small number—some 600 or something, though—is that there is a hell of a pile-up. Some of them go back six and seven months. It is beginning to cause some problems in the plants. It might be interesting, if it is possible, to get the figure on the number that are pending.

I am wondering, in the section on conciliation and mediation services, if I can ask the minister where we stand on one Onward Manufacturing Company Limited in Kitchener. I'm using this as an example of what happens in some disputes to occasionally bring the whole question of bargaining in good faith into some disrepute. I know the strike is now eight weeks old, which is not long by some standards.

The history of the plant is that it was organized back in September of 1975. It's a division of Eureka Vacuum Cleaner, of Bloomington, Illinois, which has the parts sent up for assembly at the Onward plant in Kitchener. The local union committee—the work force is largely women—negotiated for

nine months. It was a very difficult period of nine months with nothing until the last moment when the company offered them 10 cents on signing and 10 cents every six months until they had reached a maximum of 40 cents. They have a rate in there of \$3 and after six months, \$3.30.

Following that offer, the company just literally refused to do any concrete bargaining from that point on. The strike started. I just forget the exact date of the strike, but it was September 20, I believe. What's happened, of course, is that the company is just not interested in talking to them. There's no question in the minds of the workers that the intent is to break the union, which has never really been established at the plant. The people who are out, and they are all women manning the picket lines, are pretty solid. But, with the help of Manpower, there are now some 30 employees, replacing slightly better than half the work force, who have been moved into the plant. We have a situation where it is pretty obvious there is no intent to bargain in good faith.

I don't think the same thing applies at the ITT plant in Oshawa but certainly it's a question. I raise this one to draw a bit of a parallel with the W. H. Olson Manufacturing strike in Tilbury, where the union has now obviously gone down the drain. They held the lines and to get a bunch of people, most of them again women, to hold the lines for well over a year indicates some pretty solid commitment to the right to have their own collective bargaining procedures. We pushed, as the minister knows, to try to get some concrete action in that plant. I know various discussions were held but nothing was done that really forced that company to come to the bargaining table. That unit is now down the drain. I'm wondering where we are going with the Onward Manufacturing Company Limited plant in Kitchener, and the ministry can tell us in that particular situation.

Hon. B. Stephenson: Mr. Pathe, would you like to respond to this?

Mr. Pathe: It is a very difficult first agreement situation. It isn't typical. The out-front issue is agreeing on the security portion of it. There has been some unwillingness to get together either directly or with our help.

I had a long discussion late last Friday afternoon with the consultant of the employer and I've requested a meeting with him and the president of the company, a Mr. Dixon. He was to get back to me either today or tomorrow to indicate whether he would be available for a meeting.

I'm doing everything I can to get something going in that plant, including meeting with the president to press upon him the need to get some talks going. It's a very difficult situation. According to my information, 30 of the 64 employees came out on strike and the majority of them are still on strike, but the plant is operating. It will be a very difficult one, but we are trying to get some mediation going and as soon as there is a willingness, we'll put a mediator on it.

Mr. Mackenzie: The attitude and feeling, as you probably know, of the labour movement—and it's starting to get talked up at the labour council there as well as at some of the others—is that in effect the moving of the additional people in there from Manpower is strike-breaking. The wage offer that was made after nine months—and it was toward the end of the nine months before it was put on the table—was a deliberate insult to the workers, and there was no intention of signing an agreement. The intent now is to make sure there is no union agreement in that plant. That's not a view held by one or two. It's held certainly by Al Schaeffer and the girls I've talked to on the picket line and the people I've consulted with down there in the labour movement. It's typical of what brings into disrepute this whole question of good-faith bargaining on the part of the companies.

Hon. B. Stephenson: To my knowledge there has been no representation on the part of the union itself before the Labour Relations Board.

Mr. Mackenzie: I think the union may have been wrong in this. I talked to Al Schaeffer just this morning on it. I hate to say it in committee, but his attitude was a little bit defeatist. He said: "We have to make a case that there has been no bargaining. We bargained for nine months. Maybe we were naive or foolish in going that long. Then we got insulted with what they offered us. But how do we make a case for no bargaining after going through it?"

There's been nothing for the last couple of months. There's no question—and I have personally been through a few of these situations in my mind about what's going on in that particular case. They just don't intend to achieve a first agreement.

Hon. B. Stephenson: Is the union going to exercise its—

Mr. Mackenzie: They may now move. I'm not going to speak for them, but it's a suggestion I've made to them.

Hon. B. Stephenson: You mentioned the ITT situation in Oshawa. We have appointed a special commissioner to that problem. We had hoped that a meeting was going to be held at the end of last week with the officers of the union.

Mr. Mackenzie: I wasn't aware of that.

Hon. B. Stephenson: Because the president of the local has apparently been hospitalized, he requested that no meeting be held until he was discharged from hospital. Now we don't know when the meeting is going to be held. We had appointed Harvey Ladd, whom I'm sure you know, to that specific position.

Mr. Mackenzie: Once again I might be slightly out of order but is there any further discussion going on with the idea of first agreements?

Hon. B. Stephenson: We're looking at the problem of first agreements because it is a specific problem.

Mr. Mackenzie: I think it is one that probably has some merit in the case of newly organized plants or some of the back alley plants. Mr. Bounsall touched on it, but you've still got the problem today that I faced back in 1955. I have talked to the chaps who are organizing in the plants about it. I had about 12 small back-alley shops, as we called them in Windsor, that I was assigned to organize and we organized all of them. We achieved contracts in only about half of them. We had a petition in all but one of the 12 cases. Through good fortune and a fairly perceptive Judge Finkleman at the time, all of them were thrown out once we went before the board. The pressure on the employees to sign those petitions and the negation of majority decision in terms of arbitration is enough to really throw you.

Hon. B. Stephenson: Have there been any successful petitions this year?

Mr. Pathe: I haven't seen the latest statistics from the board but I'm sure they'll have some when their item is up.

Mr. Mackenzie: The point really is underlining the question of a majority-plus-one decision and why some of these petitions were odd. I never saw a legitimate one in the 12 plants that I was involved in. As I say, every one was thrown out. But the delays and the pressure that was exerted on em-

ployees you have to understand, especially if it is a lower-paying plant or a back-alley shop that you are organizing. And I sit down and talk to the fellows we have, certainly in my union, and they are still organizing. I find that the problems are the same; still petitions, still that kind of pressure, still in the lower-paying plants the fear.

The idea that we are over that, or that The Labour Relations Act or the ministry has been able to give protection, or at least a feeling of protection and security, just is still not there. It is the same point I was making the other day. There is going to have to be some real initiative if the ministry sees it as their responsibility, to allow for organizing and allow for a free collective bargaining atmosphere.

Hon. B. Stephenson: I think you suggested on Friday that the experience as a result of first-agreement arbitration had been particularly almost overwhelmingly good as far as second agreements were concerned.

Mr. Mackenzie: No, I didn't.

Hon. B. Stephenson: Perhaps it was Mr. Bounsall who said that.

Mr. Mackenzie: It wasn't me.

Hon. B. Stephenson: Okay.

Mr. Pathe: Our information is that it is the other way.

Hon. B. Stephenson: That it is what?

Mr. Pathe: That it isn't that good. It is the other way round. But I don't have the figures.

Hon. B. Stephenson: Yes, I think the figure that Mr. Bounsall mentioned was 70 per cent success in the second agreements. The information we have been able to get does not support that. I don't know what the exact figures are. But it would seem to be a reversal of that.

Mr. Mackenzie: It is not mine. I just didn't make that comment. So I am not sure.

The other thing in your estimates I didn't quite understand is the cut in figures from \$915,000 to \$909,000. It may not seem like a lot, but is that entirely due to the reduced fees that you mentioned? Does this indicate a cut in any staff or what? While I don't like it, with the trend to one-year agreements and some of the other problems, I think you may be in for a need for more services, not less.

Mr. Pathe: That was under the Labour Management Arbitration Commission, not con-

ciliation and mediation services? It may be that the minister is very optimistic. I would like to share it. I don't at the moment.

Hon. B. Stephenson: With the increase in the numbers of one-year settlements there isn't any doubt about the fact that our capability is going to have to be increased. That we are working on quite diligently at the moment.

Mr. Mackenzie: It was one of the things that bothered me when I saw the figures.

Mr. Armstrong: Perhaps Mr. Webster could speak to this. The figure that I have shows a reduction in overprovision for salary adjustments of \$23,200 and the addition during the fiscal year of five per cent inflation and 1.2 per cent additional employee benefits, totalling \$16,900, for the net reduction to \$909,100.

In other words, the large reduction figure seems to be an overprovision for salary adjustments. Is that correct, Mr. Webster? That was simply a budgeted figure that was not expended in the previous fiscal year. There was no reduction in complement and certainly no reduction in activity.

Mr. Mackenzie: I would suggest that you may need an increase and certainly if we are going to start doing something or not about cases like Onward or some of the others, you are going to give some confidence to the people in those situations that they have a chance of achieving agreement.

The other thing that I wondered, Madam Minister—forgive my ignorance of this—are we also dealing with the Labour Management Arbitration Commission section of this? I am wondering if you have considered at all the delays that are involved in the selection of arbitrators? My experience is, it is usually because both sides have certain people whom they want, and you get into such a waiting list then in trying to reach an agreement. I think about 80 per cent of them do reach agreement but it means you are going to wait six months or longer for that case to be heard and that is not conducive to good industrial relations.

[4:30]

Is anything being done about increasing the number of arbitrators and the proper training or grounding they get? Are you considering a proposal which at least some of the unions have made—I know my own has—and that is going to a single arbitrator in some of these situations? If it has been

thought of at all, you would get away certainly from the question of scheduling.

When you get both sides asking for the same people and you start finding out what dates are available and they want to have counsel as well, it is just about impossible to do anything other than a long way down the road. I am wondering about that approach—if it is being actively considered.

I am wondering also if anything is being done about a programme—I am not too well up on it—but I know there is a programme in the States now which they call a sort of mini-arbitrator situation. They have recruited a number of bright young attorneys—I always have some reservations about attorneys—who have some experience. They are usually new, just out of law school. In certain cases, I believe they handle them right up to discharge now but I think at the start it was just up to suspension. They will handle cases certainly at a much reduced cost and within 48 hours the decisions are made.

It is a programme which I understand is being experimented with with some success in the States, and I wonder whether it might not take some of the load off what we are trying to do here.

Hon. B. Stephenson: There isn't any doubt about the fact that the delays appear to be interminable in many instances and it is a problem with which we are grappling at the moment. Mary, what about scheduling? Is this still a major problem?

Ms. Calarco: Yes, but then some of the arbitrators are very busy.

Mr. Mackenzie: That is exactly the point I am making. I have talked to them and they tell me the scheduling is almost impossible.

Ms. Calarco: That's true.

Mr. Armstrong: One of the major problems is that the parties themselves tend to choose the half-dozen or so more popular arbitrators. I don't have the figures before me but from my days in practice I can remember those more popular arbitrators are scheduling three, four or five months in advance. To some extent one may say that the problem is acquiesced in by the parties using their services. In cases of importance it seems to me regrettable that the same urgency isn't being shown by the parties when they are selecting their adjudicators as is being expressed to us when they come in to complain about it. There is some ambivalence there that is difficult to understand.

Apart altogether from that essentially debating point, I happen to share your concern that it is pretty important to labour relations to have contract disputes adjudicated expeditiously and economically. If you don't, the pressures build up, the tensions build up and the parties tend to polarize and that is all reflected at the time the contract is up for re-negotiation.

I think it may not be sufficient for us simply to throw up our hands and say it is up to the parties to solve this. I think we must look at this very seriously and see if we can provide a better method in this province for adjudicating rights disputes in the collective agreement field. We are looking at it very seriously.

Mr. Mackenzie: I can think of few other areas which would probably do more to defuse the situation than speeding up these procedures. I know the initial reaction of many of the labour people in this province was not immediately favourable to the mini-arbitration setup they have taken a look at in the States but some of them are rethinking the situation now.

I know also, putting it as bluntly as I can—this is part of the long history of mistrust of either the system or the arbitrators which was built up and I understand it works on the company side as well—there are many unions which simply have the list of arbitrators, or they know the list, and there are certain ones they will not touch even though they know it means delays. That is why you get a certain number which are handled because there is no confidence whatsoever—they may be biased or otherwise in their views—that they will get an impartial decision. I know that for a fact. You say there are five- and six-month delays; I am now told that in some cases they are scheduling them for longer than that.

I don't know whether you have any evidence or not, but I'm told that it's nine and 10 months and I was told the other day a year was suggested in one case.

Mr. Armstrong: That wouldn't surprise me. You may know that under the amended Labour Relations Act—

Mr. Mancini: It sounds like the OMB.

Mr. Armstrong: —in the construction industry, the Labour Relations Board now has the power to hear arbitrations on the application of either party and the hearings must take place within 14 days of the application to arbitrate, notwithstanding any provision in the collective agreement providing for

steps to the grievance procedure. Our experience with that amendment to The Labour Relations Act has been very good. The construction industry has utilized that right and we have expedited arbitration, I think, successfully.

One must bear in mind that the element of choice which appears to be attractive to at least some of the litigants in the labour relations field is lost when you give arbitrations to an established tribunal. Whether that system in the construction industry could be extended to industry at large without disruption to the system or without destroying those elements of voluntarism in the system which are presumably useful and necessary remains to be assessed determined.

Mr. Mackenzie: I wish you would take a serious look at a couple of these suggestions anyhow, the possibility of the one, certainly the need for more and, once again, it may be difficult to talk money, but whether you can do this kind of a job with the arbitrators with that reduction in your budget, I don't know in this particular case. But it seems to me that the dollars spent are not great in this field. The return could be really great, if we could do something about eliminating the delays and in the course of doing that build up some trust, which I suppose, is the point I'm making as much as anything.

Mr. Armstrong: You understand, Mr. Mackenzie, that the expenses for the arbitration aspect of this vote relate only to The Hospital Labour Disputes Arbitration Act?

Mr. Mackenzie: Yes, I'm not forgetting that for a minute.

Mr. Armstrong: And the costs of arbitrations at large are borne by the parties involved.

Mr. Mackenzie: The parties involved, yes. I'm wondering, if you could, finally, do some checking on the figures that I had on some of this mini-arbitrations attempt in the States? The costs given to me were approximately \$250 to \$260 a day or about \$43 a case—and they get 48-hour decisions.

Mr. Armstrong: With more than one case handled in a day?

Mr. Mackenzie: That's right. That's obviously not going to deal with the complicated cases, but it could eliminate a certain number of the cases.

Mr. Pathe: Nothing like the Sudbury people at Inco.

Mr. Mackenzie: There's mixed feelings about that. That's all I have to say.

Mr. Mancini: I'd like to ask the minister some questions on the programme administration.

Mr. Chairman: That item, item 1, has already been carried.

Mr. Mancini: I thought we were talking about carrying it.

Mr. Chairman: No, we carried the item and we're now on item 2.

Mr. Mancini: I noticed some of my other colleagues here have been able to talk on item 2 and item 3, but that is all right.

Mr. Chairman: We're talking on 2 and 3, but we've carried item 1.

Mr. Mancini: We'll skip it then. Thanks. I'd like to know, if you have a number for the conciliators and mediators available to you so you can tell the members of the committee? I'd also like to know when you try to pick these people if you go after people with certain regional backgrounds. There's quite a large industrial force in the north and I was wondering if as many people are hired from that particular area as there are from southern Ontario and if you try to get people from certain regional areas who are more attuned and closer to the problems. I was wondering if you did that in your ministry.

Also, I believe my colleague, Mr. Bounsall, has touched on the long-time strike—I shouldn't say strike when it can hardly be a strike because the store is still operating—at the K-Mart in Windsor. I really feel that you, as minister, could do quite a bit more in this regard. I believe we have people who are not asking for something unreasonable to be organized so that they can demand a better share of the profits that the company makes.

I'm sure that in the private sector, where we have employees, it's not their goal and objective to bankrupt the company they work for because they realize that they also have to continue to work. So when I see a situation where a group of people are trying to organize and the store is putting on big sales and they're hiring new people every day I really find that distasteful.

I think if I was the Minister of Labour I would try to do something about it. And if I couldn't do something about it the way the law is now I would do everything I could to change the law so that I could help.

I mean, when you look around and you see people in grocery stores and other types of

facilities like that who are already organized, it really doesn't seem anywhere near objectionable to have people in these large chain stores organized. Really, when we see the attitudes that these chain stores have, especially the large ones; before the Sunday closing law they worked their employees on Sundays and now quite a few of the larger grocery stores are open 10 to 10 all the way through the week. It's really not offering a very good quality of life to our people here in Ontario and I'm sure all of us could shop in regular and reasonable hours. I would like to have some of your comments on that particular strike.

Really, it would be a shame, after all this time, if the ladies—that's probably one of the problems too, the people who work there are women. They're not the major breadwinner in the family so there's not a lot of fuss made about it. I really would like your comments on that and I really would like your reasons why you haven't intervened or why you haven't changed legislation if that's what is needed to help this particular group get organized?

In the same vein, I'd like to mention a couple of things about public health nurses. It was discussed in great detail here the other day and the great service that the public health nurses provide has also been mentioned in the Legislature itself. I'm sure many of the members like myself have received 30, 40 or even 50 letters concerning their present plight.

Really, I have to say that I just cannot understand your lack of action in this drive. Here you have a good opportunity to really prove yourself as a Minister of Labour. We have these health nurses who can't come to an agreement. We know that they provide a good service and we know that they're needed and yet we have a Minister of Labour who is not ready to champion their way to a settlement.

Really that's the kind of Minister of Labour we need here in Ontario. I don't know if it's your cabinet colleagues or whether it's yourself, but I think you have the capabilities to do it. Also, I'd like some comment on the situation of the public health nurses and just why you're not out in front leading the way to a settlement for them.

[4:45]

I'd like to mention that here, in Canada and in Ontario, we have quite a poor record as far as strikes and lost days are concerned. I was very curious to read in the paper some time ago this quote from June 1, 1976.

My friend, Mr. Bounsall, was speaking to the Chamber of Commerce. He was speaking to them as the labour critic. He said to them:

"Labour relations in Ontario are very good, in spite of the picture created by the media. Over the past 11 years, 97 per cent of all contracts in the province have been signed without strike action. We only hear about the three per cent. The rest never get reported or it appears on page 41."

That was said on June 1, 1976. Really, I think what Mr. Bounsall says, with all due respect, takes this out of proportion. If we see a problem we have to realize it is there and do everything we can to try to minimize that problem. I have figures here for 1975 where we have lost 3,119,450 days through strike action. With a country of only 20 million people, I don't think we can continue to afford this. I don't necessarily believe it is the fault of the workers that we have this many lost days in strikes. Maybe it would be better for someone like Mr. Bounsall to take the attitude that it is not always the fault of the worker or the fault of the union that we have lost days through strikes. But, we do have a very large problem.

I would just like to quote from the *Toronto Star* on September 20, 1976: "In Canada we are obviously in trouble with simultaneous inflation and unemployment, slumping productivity, and in terms of lost production time, the worst strike lock-out record in the world."

That was September 20, 1976. I think that is the problem we have and that is the problem we have to address ourselves to. We just can't say it is the fault of the media that we have bad strike lock-out records, or that it is the fault of the companies or the workers. Really, I haven't read or seen anything particularly that you have done as the minister to help improve our record.

I just heard here a few minutes ago that we might not have as many arbitrators or as many mediators in the future as we have now. Wasn't that said?

Hon. B. Stephenson: No, it was not.

Mr. Mancini: Well, then I will take that back. Certainly, just continuing along this same line, someone is going to have to take a stand. Maybe the stand is going to have to come along the lines of realizing that the system we are using right now is not adequate, that the Minister of Labour and her ministry are going to have to look into other ways and means of settling disputes and obtaining new contracts.

I will be sincerely interested in hearing from the minister, or her ministry, if she

has done any research in this regard, what she plans to do in the future, or if she plans to introduce any new legislation, since we all know she has only introduced one piece of legislation in her first year.

We in our party have been looking at different areas in the world. We have seen some jurisdictions which have been able to handle their problems quite a bit better than ours. Certainly if I was the Minister of Labour or my colleague, the member for Sarnia (Mr. Bullbrook), was the Minister of Labour, I am sure that we would be looking toward other jurisdictions in the world to see why their strike record is so much better than ours.

Mr. Wildman: Socialist government.

Mr. Mancini: Pardon? Really, the Minister of Labour should be looking toward the day when we don't need any more arbitrators.

Mr. di Santo: That's right.

Mr. Mancini: Thank you, Odoardo; I am glad you agree with me.

I would just like to say one word about arbitrators in passing. This thing really bothers me, especially in the public sector of our economy. Usually we have a school board or Legislature or council elected to do a job, and part of their job is to spend the taxpayers' money. They create budgets and they forecast their future expenditures. For the public sector I think probably the worst thing we have going for us today is arbitrators coming in and ruling when they and the other parties should be making the decision because they know how much money they have to spend and what their programmes can call for.

I really object to the school boards which keep looking toward the Legislature and arbitrators to settle their disagreements because it certainly isn't our job to spend their money. I think the Minister of Labour should be looking for some better solutions in that regard. Maybe if you did look at other jurisdictions around the world you might be able to find some solutions.

It was mentioned by another member of the committee, I believe, that he was finding the same problems today that he found in 1955 when companies would force their employees, unfortunately, to sign petitions against certification of a union. I am sure you are well aware that my colleague, Mr. Bullbrook, has introduced into the Legislature an Act to amend that. I am curious to know if the minister is going to act on that or if

she is going to pick it up because I don't think we can stand for that type of thing today.

In 1976 I don't think we should allow a petition against the certification of the union. If they have the support of the employees and if they are ready and willing to organize I think we should let them go ahead and go on about their business. I would be really disappointed in the minister if she let this good opportunity to pick up this fine piece of legislation go by, without helping people in the work force.

Another thing which keeps coming up and which I would like to talk on as far as labour relations goes, is it has been said that in our country we are not able to have good labour relations because we are not unionized enough. I kind of disagree with that.

Interjection.

Mr. Mancini: If Mr. di Santo will let me go on, I would like to point out to him that if we look at the country of Germany, we can very quickly find out that only 30 per cent of the people in Germany, as in Canada, are unionized. No matter what Mr. Broadbent says, his figures are wrong.

Mr. di Santo: Usually your figures are wrong.

Mr. Mancini: The problem we have is not that our employees are not unionized. I think we need a leader in the minister's office who is willing to take public action on stuff like the K-Mart strike and the public health nurses and lead the way for everyone else. I think I will end my comments there and have the minister reply.

Hon. B. Stephenson: Mr. Chairman, I was very pleased to hear Mr. Mancini support our concern that the collective bargaining process should be allowed to function particularly in the public sector, because that is precisely what we have been trying to do as far as public health nurses are concerned.

Mr. Mancini: Yes, but it is not working.

Hon. B. Stephenson: What you are saying is that we develop a policy and then change it every time it doesn't work?

Mr. Mancini: No, I am just saying you, as the Minister of Labour—surely the minister knows that no matter what type of system you have there are always going to be occasions—

Hon. B. Stephenson: Unfortunately, I gather you were not here to hear me say on

at least two or three occasions that we feel a better system should be developed vis-à-vis the public health nurses and their employers, the boards of health. I believe very strongly that kind of system can be developed.

What we have been trying to do is to work with both parties to reach an agreed-upon solution for this set of negotiations with the promise from both sides that they will work with us to develop a proposal after this solution is reached this time. We believe that this is an ongoing problem which is not going to be solved by emergency legislation for this specific situation at this time. I am still hopeful that will happen because we have notified the ONA that we are willing to begin again on their behalf to work with the boards of health to try to reach a solution now so that we can proceed to the development of a more salutary solution for future problems, because, indeed, this must be done.

Some of the figures which you quoted, in fact all of the figures which you quoted, in the statements which you made relate to Canadian experience in terms of man days lost and work stoppages.

Mr. Mancini: And Ontario is leading.

Hon. B. Stephenson: No, as a matter of fact, Ontario is somewhat better than the national figures—considerably better than the national figures.

Mr. Bounsall: Not according to the federal government.

Hon. B. Stephenson: I am pleased to say—

Mr. Chairman: Order, please.

Mr. Mancini: As long as you have that whipping boy you'll be all right.

Mr. Bounsall: Let's face it, that's where the big man-days-lost increase is, the federal Management Board.

Mr. Chairman: Order, please. The minister has the floor.

Hon. B. Stephenson: We have in the mediation and conciliation branch at the moment 12 conciliators and seven mediators, and I can tell you it is our intention to increase that number rather than to decrease it. I made no statement at all about decreasing conciliators, mediators or arbitrators.

Mr. Mancini: Well, this is where we clear things up, here in the estimates committee. I'm glad you're stating that.

Hon. B. Stephenson: Okay, fine. The K Mart situation is indicative of a problem in

first-contract negotiations of which we're very much aware, and a problem which we are examining right at the moment in the hope that we will be able to find some solution to improve that situation.

The elimination of petitions is something which has been suggested with some frequency by the unions. It also is being examined. It is the experience, I believe, of the last year or so that, indeed, very few petitions have been allowed. They may have been carried out but they have not been accepted by the Labour Relations Board. We are doing precisely—

Mr. Mackenzie: They served their purpose though.

Hon. B. Stephenson: As harassment, that's right. Yes, I'm also pleased that you've caught on to the activities which are going on within the Ministry of Labour. For the past year, we have indeed been examining the kinds of programmes in many other jurisdictions, not just West Germany, not just Sweden and not just Japan, but many others, in order to attempt to find those specific items—

Mr. Mancini: You haven't had a chance to study China yet.

Hon. B. Stephenson: I've been in China, I've seen that, thank you very much, and I don't think you want that kind of labour relations system here.

Mr. Lupusella: You forgot a country.

Hon. B. Stephenson: Pardon? What did I forget?

Mr. Lupusella: Italy.

Hon. B. Stephenson: I didn't forget that one. We're not going to bother examining that one, thank you. But it was my suggestion that I really don't think you'd want China's labour relations programme introduced into Canada at this stage.

Mr. Armstrong: I was just going to add, Mr. Mancini, you suggested that we had to be working diligently to improve our record. I know how modest the conciliation and mediation service is, and since they probably won't speak for themselves I wanted to say one or two things about that.

Many people predicted at the outset of the bargaining calendar for this year that it was going to be an extremely difficult year and that we had a number of key disputes coming up that were going to lead to long work stoppages. Without the benefit of any new

legislation, but because of the aggressive and ultimately successful approach of this gallant band of mediators and conciliators, let me remind you that within the past year the following key disputes have been settled without work stoppages: the Ontario Hydro, the Toronto Transportation Commission, the city of Metropolitan Toronto and the boroughs, with the exception of North York, but the North York stoppage was a very short one—

Hon. B. Stephenson: Four days.

Mr. Armstrong: Everybody predicted that the electrical appliance industry would be out; both Western and CGE settled. In the past, the packing house industry has been a serious problem, but it was settled without a work stoppage, again with heavy involvement by the ministry.

Although the service workers in the public hospitals of Ontario don't have the strike right, strikes were threatened but both the SCIU and CUPE disputes were settled without resort to illegal activity. I think it would be unfair to pretend that we could take great credit for the recent settlement in the Ford dispute but it looks like the automobile industry is going to be settled without undue disruption.

[5:00]

So despite the Jeremiah chorus that we heard at the beginning of the year, the worst hasn't happened. I think, if I may say so on behalf of the conciliation and mediation services, that under the complement constraints and the resources restraints that we have, they've done a highly creditable job. That's not to say that new approaches shouldn't be examined and developed but I didn't think the record should be left, Madam Minister, to indicate that the service had not had a successful year.

Mr. Mancini: Do you have more?

Hon. B. Stephenson: Oh, I'm sure that you have more.

Mr. Mancini: Yes. First of all, I can really appreciate the deputy defending his people. I am sure they're working as hard as they can and doing the best job that they can but, really, you can't have us believe that. I have to believe that the reason that there aren't as many strikes today is because the workers have felt the heavy hand of the AIB and they've seen what's happened at the rock salt plant in Windsor where these workers were on strike for seven months. They came to an agreement and the AIB rolled it back so,

really, any worker today who has any knowledge at all of what's going on knows that it just serves no purpose at this particular point in time to go out on strike.

I really object that you didn't mention that because there are certain colleagues of the minister who really hammer the government in Ottawa. I'm sure that at some time they need it, as all governments do. Yet they try to take credit for things without putting everything in proper perspective. I don't think anyone here can dispute the fact that the reason there is less lost time in strikes this year is because of the AIB. The workers have as I've said before, the heavy hand of the AIB. They're just accepting it for the time being until they can do something about it, I presume.

Also, I was a little surprised at the minister's response concerning public health nurses, local autonomy and having the board settle the problems themselves. I remember—and it wasn't too long ago, it was just a few months ago—when school boards all across this province, separate school boards in particular, were actually firing school teachers because they had made a commitment to hire other teachers and these teachers who had presently been hired had not had their contracts renewed yet.

When we brought this matter up with the Minister of Education (Mr. Wells), he didn't wait around to say that it was local jurisdiction. We saw automatically that it was a very serious problem and teachers were losing their jobs for no good reason whatsoever. He intervened and he met with the school board people and a short time after these people were working; these 35 people in the county of Essex anyway, who had been let go, who had actually been fired because the school administrators, who get paid around \$40,000 a year to make the right decisions, to make the same decisions that local people used to make for nothing years ago, had miscalculated the number of people they were going to hire.

I was quite pleased with the action of the Minister of Education when he said that he would intervene immediately and see what he could do. I just wish that the Minister of Labour would do those things. I certainly don't think that it would hurt any of the people involved. As a matter of fact, I think it would help. I don't really think that we've seen a strong Minister of Labour here in Ontario.

Hon. B. Stephenson: I'm sure you're absolutely right and I agree that I have introduced no legislation at all because I do not

believe that legislation is the answer to all problems. I think that working with people and—

Mr. Mancini: How do you solve the problem? With a petition?

Hon. B. Stephenson: —bringing people together is probably just as important as passing legislation. But I would remind you that in 1975 major amendments were made to The Labour Relations Act. As I said before, it was considered to be wise and appropriate to allow those amendments to sort of settle out to find out the effect that they would have before any others were projected. I would appreciate it, Mr. Mancini, if at some time you have some information about the numbers of public health nurses who have been fired from their jobs, that you would give it to me because I don't have that kind of information.

Mr. Mancini: No, that's not what I was talking about.

Hon. B. Stephenson: Well that was the kind of comparison you were raising as far as I know.

Mr. Mancini: No.

Hon. B. Stephenson: Then I've misunderstood you.

Mr. Mancini: Yes, you were saying it wasn't your responsibility to intervene and you wanted the people in the public sector to—

Hon. B. Stephenson: No, I did not say it was not my responsibility.

Mr. Mancini: Well just what did you say then? What were you telling me?

Hon. B. Stephenson: As a matter of fact I get in there with both feet.

Mr. Mancini: What were you telling me when you said you were glad that I had said that in the public sector people should sign their own contracts?

Hon. B. Stephenson: Should come to an agreement, and that collective bargaining was the proper process to follow to reach agreement.

Mr. Mancini: And what if they can't?

Hon. B. Stephenson: Then we have intervened and we have brought both parties together. We have extracted, indeed, a promise from both sides that once this situation is settled they will work with us to

find a more appropriate method to settle potential contract difficulties.

Mr. Mancini: When are the other 29 boards going to settle then; do you know?

Hon. B. Stephenson: That is exactly what we are working with right at the moment, but your comparison with the Essex county separate school board situation—

Mr. Mancini: No, I was comparing the actions of the Minister of Education.

Hon. B. Stephenson: —regarding the numbers of teachers who were going to be fired, is not valid in terms of public health nurses.

Mr. Mancini: No, I would just like the minister to know that I was comparing the quick action of the Minister of Education and I would like to tell you I like you a lot better than I like him. Anyway, I was comparing the quick action of the Minister of Education as far as public employees were concerned with your lack of action.

Hon. B. Stephenson: Well, our action has not only been quick it has been persistent.

Mr. Chairman: Does that conclude your remarks?

Mr. Mancini: I think I'll stop for now.

Mr. Chairman: Mr. di Santo.

Mr. di Santo: I pass, Mr. Chairman. We have another item and I think there isn't enough time left.

Item 2 agreed to.

Item 3, labour management arbitration commission, agreed to.

Vote 2202 agreed to.

On vote 2203, women's programme; item 1, office of the executive co-ordinator:

Mr. Chairman: Ms. Bryden will lead off, followed by Mr. Johnson.

Ms. Bryden: I would like first of all to discuss a procedural matter, Mr. Chairman. Since women's issues affect 50 per cent of the population and I think it is a very important matter to discuss in connection with this ministry's estimates, I would like to move that we change the agreement arrived at earlier to the effect that a minimum of 90 minutes be allotted to these three votes, and that they be dealt with separately, vote by vote, with a sort of target of 30 minutes per vote, but if we use less than 30 minutes on one vote it could be used on the

other votes. If there is a seconder I will speak to that motion, Mr. Chairman.

Mr. Bounsall: I will second that. It will mean adding half an hour tomorrow to that women's vote.

Mr. Johnson: What is the original motion?

Mr. Mancini: Really, if we are going to start changing this one we might as well just revamp the whole system.

Mr. Johnson: There is no sense in making an agreement, if we change it every time.

Mr. Chairman: I'll just quote what was said on Friday morning. I am quoting Mr. Bounsall: "On Monday we meet in the afternoon only and finish industrial relations." And Mr. Mancini said, "You have missed the women's programme." Mr. Bounsall replied, "I am sorry, on Monday we finish industrial relations and start and complete the women's programme."

Mr. Johnson: Surely then, everybody agreed.

Mr. Chairman: That was the agreement that we reached on Friday last.

Mr. Bounsall: That was the agreement, Mr. Chairman, but if it is a case—

Mr. Mancini: I asked about the women's programme the other day, and you apologized and said that we had an agreement. Now because one of your colleagues wants to change it it is all right.

Mr. Bounsall: I am simply asking the committee, Mr. Chairman, whether out of the some five and a half hours tomorrow we could not have half an hour for continuation of discussion on the women's programme?

Mr. Mancini: Then let's not make agreements.

Mr. Bounsall: It would be only with the agreement of the committee, Mr. Chairman, that is what we are asking for. For a vote like the women's vote it seems reasonable to put another half hour in tomorrow. That is not unduly bothering anybody.

Mr. Mancini: Really, Mr. Chairman, I don't think anyone here is against us spending more time on the women's vote, and it is really unfair if certain members try to perceive other members of the committee as chauvinistic and not concerned about the women's vote. Really, it's terribly unfair; and it's not fair to an agreement that we had come to earlier. It's unfair for you to even ask these members here to consider this after we've gone over it on Friday and Monday.

Ms. Bryden: Mr. Chairman, may I speak to the motion?

I think when the agreement was made, it was not known how long the previous vote would take. When it was made, I think the assumption was that there would be at least an hour, maybe an hour and a half or so, for this very important vote. Now we are facing a new situation where there are less than 50 minutes left for three votes. Less than half an hour per vote does not give any opportunity to discuss programmes which affect the public sector in the second vote, the whole question of the women in employment in the third vote, and the whole question of the overall policy of this government on what it can do about the status of women and on removing barriers which face women today.

Mr. Mancini: If the member will look at what votes we have left and their headings I'm sure she'll agree that they're also very important. They also need a lot more time than we have, but I believe the members of this committee have learned to work within the restraint on time that we have. It's true in the Legislature, it's true in committee and it's just true in this whole system. I really don't believe that argument holds any water.

Mr. Chairman: I'll be guided by the committee.

Mr. Bounsall: You have a motion, Mr. Chairman.

Mr. Chairman: Actually, if we can restrict it to half an hour, we must remember that half an hour must be deducted from another vote, because I think we have unanimous agreement that we'll be completing our votes at 6 o'clock on Wednesday evening. So if the committee wishes to discuss this vote for an extra half an hour, it's perfectly all right with the Chair. Did you wish to lead off with the discussion on item 1?

Ms. Bryden: Thank you, Mr. Chairman, I appreciate very much your willingness to give us a little extra time. We'll try to be brief.

We're now discussing item 1, which is the office of the executive co-ordinator. As probably everybody knows, the office at the moment is vacant, which gives us a very good opportunity to examine the whole office and its function.

In the women's programmes we are covering three sectors; women Crown employees and their position in the Ontario public serv-

ice, women in employment—the women's bureau in the main is concerned with that—and the whole status of women in our society, which the Status of Women Council is somewhat responsible for—at least it is considering measures in that field. I know it doesn't come under this ministry and therefore we cannot discuss it, but it covers a field that could be considered women's programmes so the women's co-ordination office presumably is intended to co-ordinate all those three programmes. However, to me it looks like just another one of the super ministries which are of so much expense to this government but of so little value.

While I think Ethel McLellan, when she had the position, did fulfil a very useful role in delineating the mandate for those three sectors I mentioned and of co-ordinating them, I think that job is now done. They each have their mandate and their role. It would be more suitable to apply the money in that vote, although it is reduced considerably from last year, to other programmes and, in fact, eliminate it from that vote but make it available to the other women's programmes.

I'm not in favour of us reducing the pitifully small amount in the ministry's estimates for women's programmes. Last year it was 3.74 per cent of the ministry's budget and this year it is 2.68 per cent. As you know, it's a total of \$505,000, which is hardly adequate for the job that has to be done. It seems to indicate the low priority the government puts on women's programmes. [5:15]

The percentage of women in the labour force in Ontario has grown from 34 per cent in 1964 to 43 per cent in 1974 and the problems facing them are growing, particularly in periods of tight employment. They tend to be the first ones to suffer, to need protection, and the whole question of women's status and removing the barriers to their ability to participate fully in society is still with us very much, in spite of International Women's Year; that didn't solve everything.

Mr. Wildman: It didn't solve anything.

Ms. Bryden: So I would like, in discussing this item, to suggest we should be considering whether it still has a role to play or whether it could be dropped and the money applied to other programmes.

Mr. Chairman: Does the minister wish to reply?

Hon. B. Stephenson: The role of the executive co-ordinator has been extremely

well filled, as the hon. member has suggested, by Mrs. McLellan. She did move to an assistant deputy minister post in the Ministry of Education in September and, as you are aware, a competition is presently under way to find a replacement for Mrs. McLellan.

The total amount of money which is estimated for 1976-1977 as compared to 1975-1976 shows primarily the difference between the extra funding which was made available during International Women's Year. If you compare the growth rate from 1974-1975 to 1975-1976 then 1976-1977 you will note that, indeed, the growth of the programme is fairly reasonable in terms of the comparison between 1974-1975 and 1976-1977, and that the large amount that was estimated for 1975-1976 was primarily for the extra activities which were carried on during International Women's Year.

Mr. Armstrong: It was \$260,000.

Hon. B. Stephenson: Yes, it was \$260,000 as a matter of fact.

Mr. Chairman: Mr. Johnson.

Mr. Johnson: That was one question that I wanted to ask the minister, Mr. Chairman, why the reduction of 29 per cent or nearly \$250,000, but you've answered that.

The other question is, has the programme been a success in the promotion of equal opportunity as between male and female?

Hon. B. Stephenson: Relatively, I think it's been a major success in those areas in which it's been carried out, but I think that Marjie Clarke could probably answer that, mind you Kay as well, because they have both been involved.

Mrs. Clarke: There is the equal opportunity programme in the government and there is one in the private sector which the women's bureau is operating, so perhaps we should say a few words.

Mrs. Eastham: I'm wondering if this question should be addressed in this vote or in one of the other votes.

Hon. B. Stephenson: If you're being a purist, no; but I think it might be reasonable to go ahead with it now, yes, because the question was asked about the equal opportunity programme, which really covers the full range. Would you like to begin, Kay?

Mrs. Eastham: Okay. Within government, part of the role of the women Crown employees office is to monitor statistics which indicate the employment status of women

who work either directly for government, in the ministries, or indirectly as Crown employees in Crown agencies. We collect quarterly data on this and we also put out an annual report, and I think you will be familiar with our first annual report.

Although our second annual report has not yet been tabled, we have done some of the data collection for this, and looking at three areas we look at the salary differences that exist between men and women; we look at the occupational distribution of men and women, and we are also monitoring women's access to staff training and development opportunities that are provided within government. So looking at those three statistical measures of progress there's been a very positive increase in women's access to staff training and development opportunities within government. In the other two areas of salaries and occupational distribution, at the moment we see no change. There hasn't been any change in those overall statistical indicators.

In terms of establishing the programme within government, I think there has been some progress. Every ministry now does have a woman's adviser and advisory committees to work with the woman's adviser and the deputy minister who is responsible. I think the programme's well entrenched in government. We have to see the change in the statistics yet.

Mr. Johnson: One other question I have—I'm not sure what vote it relates to but it's more information I'm seeking or at least a clarification. In the help wanted sections—I have the Sun here—they have one advertisement for tractor-trailer drivers, then another for go-go dancers. I'm sure they want different types of people in each—

Mr. Wildman: You never know.

Mr. Johnson: —is it certain that they can't use the terminology male or female for any advertising for jobs?

Hon. B. Stephenson: That comes under another vote as a matter of fact, because that's under the Human Rights Commission.

Mr. Johnson: Well if it's coming up later, I'll leave it. That's all I have.

Mr. Wildman: Mr. Chairman, I don't think the whole of that question was answered.

Hon. B. Stephenson: No, Marnie has not completed her answer as yet.

Mrs. Clarke: I think it's important to notice or to take note that the internal programme

has a mandate; that is, it has a certain amount of real clout in terms of seeing that programmes are implemented.

In the private sector, of course, we are working on a voluntary system which means that companies approach us. We have certainly gone out to a great many companies—we're up to approximately 180 at the moment that we have met with—and I would say we are working with about half of those on an ongoing basis, helping them to develop affirmative action programmes. It's very difficult, therefore, to monitor what is happening. We do keep very complete files on all the companies we're working with and that includes some other organizations which have asked us to come in. There may have been some disputes—for example boards of education or something of that sort—and they are concerned that there is perhaps not an equal opportunity programme. We go in there and recommend action and so on.

In the majority of cases the companies we are working with have moved ahead. They're involved in data collection; where are the women in our company, what are their skills and abilities? We encourage them to look at what they're able to do rather than going back to the old problem of women having degrees in medieval English. Putting that aside, they look at the performance of women in their corporations and they're beginning to do that.

We are also finding that more and more women are being put on staff training and management programmes within the corporations. In many cases they've appointed equal opportunity officers to work within the company and we recommend that those be given direct access to the vice-president or the president of the corporation. In most cases that has been done. We find that recruitment material is being reviewed; the way they approach the universities and the colleges in terms of young female graduates. Employee benefits, of course, are being equalized and sexist company advertising is being changed. Equal pay studies are under way in some of the corporations.

We really have a wide range of activities going on in many corporations in Ontario. We're very anxious to get to the stage where we can begin to evaluate that to see if it has been effective. It's the kind of programme which takes a great deal of time to become entrenched so that the personnel policies are clear and every one in the corporation recognizes its responsibility. Even though you get top level commitment, you still need the ongoing involvement of line managers which is often where the problem starts. We do work

as hard as we can to insist that this becomes systematic so that all the employees are affected.

We are also finding that it's helping in terms of career development for men, because when they begin to assess what they are doing in the field of human resource development, many of the companies find they are sadly lacking, so we are setting up counselling services which are helping both men and women.

Ms. Sandeman: The answer to the preceding question makes me feel even more strongly than I did before that perhaps the ministry should consider whether up to now we haven't had too many people managing separate programmes. By this I mean the answer you just gave about the women's bureau, which we see described in the ministry's annual report under the section dealing with the office of the executive co-ordinator, when it seems fairly clear to me that we didn't need an executive co-ordinator here to tell us about what the women's bureau is doing with private businesses. In fact the role of the executive co-ordinator would be to co-ordinate what the bureau is doing with private businesses.

What I'm saying is, if the budget is so small I'm wondering why we need to have this third co-ordinating function, when the present function seems to be working very well with the women Crown employees office and the women's bureau functioning side by side. It seems to me there's so much duplication in a very important but relatively small area of activity. I'm wondering if you are really committed to filling that position. If you have an executive co-ordinator, then presumably she has to have a staff. I'm assuming it's going to be a woman. I'm wondering why the staff who work in that co-ordinating division couldn't be working for the women's bureau or the women Crown employees office. I see some duplication there.

Hon. B. Stephenson: The initial co-ordinating role brought together the concerns and the problems raised by the Status of Women Council, by the Civil Service Association specifically, and by the private sector and the public sector. It did provide a channel of communication for all of those groups working together to try to foster increased opportunity for women, both inside and outside the government.

We are looking at this very seriously, I will have to admit to you at the moment. As I said, there is a competition going on which the Civil Service Association felt was necessary. Because both Marnie and Kay do a

superb job in the area in which they function and work together very well in the same office, I would have to concur with your concerns about whether it's necessary to go on with the co-ordinating role. I don't know that as yet.

We're really exploring this whole area to try to find out how best we can deploy our funds and our complement. The employment which was been carried out thus far in these two divisions, in the women's bureau and the women Crown employees office, has been extremely effective. The diligence and the energy which the staff bring to their jobs are superior; it's exemplary as a matter of fact.

I have talked to both employees and deputy ministers within government who are really enthusiastic about the kind of role the women Crown employees office is doing. I've also talked, I'd like you to know, to the vice-presidents of at least four major companies in this province who are out selling the women's bureau programme because they are so enthusiastic about it, simply because of the quality of people who are involved with it.

I would share your concern. I will have some problems, I'm sure, sorting this out with some ministry staff, but nonetheless it's a concern of mine that we deploy whatever we have available to us in the best possible way. Whether it should be in the traditional fashion which was established or in some other fashion is a question I have raised and am continuing to raise, but I wouldn't like to see the programme's budget depleted by having this removed at the present time. I would like to retain a certain degree of flexibility regarding this.

Ms. Sandeman: Yes, in fact if you could find some way of getting it in line, we'd all be with you.

Hon. B. Stephenson: Yes.

[5:30]

Ms. Sandeman: Could I just say a few more words, then, on that first item? Because of the duplication, I'm not sure if I should follow up a little more on the comments on the women's bureau under this vote, although the executive co-ordinator description describes the number of meetings with employers last year. I heard Mrs. Clarke mention that 180 companies were now involved. I wonder if this is envisaged as always a process of coercion and selling them with the brilliance of the staff and the rectitude of the idea? Has the ministry ever considered suggesting to all ministries of the government that whenever they make a contract with a

company, one of the terms of the contract would be that they would only do business with firms which have affirmative action programmes? Would that provide some kind of clout to show that the government really means business, that we're not only going to say to company executives: "It would be very nice if you would look at affirmative actions for your employees," but also go further and say: "We will not do business with you, we will not contract the building of our new hospital to you unless you have an affirmative action programme for your employees."

Hon. B. Stephenson: This might be a little difficult with the construction industry right at the moment, because there are damned few women involved in the construction industry except at the design planning level.

Ms. Sandeman: Yes.

Hon. B. Stephenson: It would be wrong, indeed, to suggest that the action has been even semi-coercive on the part of government as far as private industry is concerned. I think something like one quarter or so of the companies involved have come voluntarily to the women's bureau to help to develop their programmes for affirmative action. I would have to tell you quite honestly that we have not considered the possibility or suggestion which you mentioned. It sounds kind of interesting, but I think it would be a little difficult to spread right across the board, I'm sure. But difficulties notwithstanding, we could examine it.

Ms. Sandeman: I was thinking in a kind of parallel way of other jurisdictions which have affirmative action programmes for the disabled, where governments will not contract on programmes unless—

Hon. B. Stephenson: The British one?

Ms. Sandeman: Yes, the British one specifically.

I'd like to pursue with you, but I guess we haven't got time and maybe I could do it afterwards, why women who have degrees in medieval English are a problem, I feel affronted.

Hon. B. Stephenson: I really don't think that Marnie was raising it as a problem. She was suggesting, indeed, that their talents might not be recognized simply because the degree they have doesn't really bear any close relationship to the kind of job which they're doing.

Ms. Sandeman: That's true. I've noticed that.

In the comments under the women's bureau, perhaps we could explore in more detail the kind of help the companies are asking for. I'd just like to comment briefly on the Experience '75 programme.

I know it's over a year ago now and it's rather out of date, but I felt at the time that for those students who were employed on that programme, and I still feel it, that in many ways, it was a make-work programme for young female students. They were very conscious of that, at least in my own community, that they were providing services and doing surveys that had already been done by other groups in the community.

If the result of their work was to show that day care, family planning and equal job opportunities are concerns for women in every part of Ontario, one would have to say: "We knew that already." I know that was a kind of high profile thing for International Women's Year.

Hon. B. Stephenson: It was not repeated this year.

Ms. Sandeman: I know it wasn't repeated this year, I thought it was a mistake in the first place. It was tokenism of the worst possible kind. It was a waste of those young women's talents for one thing; we could be using them in all kinds of ways through the women's bureau but not to go around the province asking women if they're concerned about day care.

Hon. B. Stephenson: One of the things that pleased me this year was the number of women involved in the STIR programme. There were a remarkable number of young women, particularly law students, who are really interested in industrial relations—

Mr. Bounsall: What was the percentage there?

Hon. B. Stephenson: I haven't got it. I remember reading the list of women students in the STIR programme.

Mr. Armstrong: Are you talking about 1975 now? There were 41 students in the 1975. In STIR programme there were 61 in International Women's Year. There were 35 in the construction industry survey.

Hon. B. Stephenson: No, it was the number of women students in the STIR programme.

Mr. Armstrong: Oh, I see.

Hon. B. Stephenson: I'm sure it was something like a quarter, which I was astonished at and which I thought was great.

Mr. Adams: I know one of the recommendations of the women that were in the STIR programme was that there be more women in subsequent years and that recruiting take that in mind. It really had to do with the kind of advertisement that went out and the locations to which it went. I know that those involved in the programme for next year are committed to taking that into account, but they haven't gone so far as to set quotas and to put it up front as mandatory for Ontario.

Mr. Chairman: Is there any further discussion on item 1?

Mr. Bounsall: Just briefly, Mr. Chairman: In terms of the comments you've been making about whether or not the executive co-ordinator's job should be filled, Ethel McLellan now having left it, it's simply a case, I think, with the small amount of money being placed in the programme, whether the moneys are best spent at that high level. I certainly wouldn't want to see any more moneys cut from the vote. If that sort of office could translate itself into another three or four field workers for the women's bureau in its education programme, that might be more productive in terms of getting the attitudes changed across the province.

I certainly wouldn't want to see that \$115,000 disappear. It might best be placed elsewhere, particularly in the light of the co-operation and the close contact between the heads of the other two divisions.

Just under this general vote, and the office of the executive co-ordinator, I would hope that through this programme recommendations count, and that the minister under whose direction the women's programme resides its continuing to fight for day-care facilities in this province. Women supposedly have the right to work outside the home, but the mechanisms to assist them to do that are virtually non-existent, and if they're not to be placed at a serious disadvantage because of the socially and economically desirable act of having children some time in their lives, then we've got to have much more extensive day-care programmes in Ontario—24-hour universal service, because as women get into different jobs in the work place, I would think we're looking at considerably more shift work emerging.

There may well be the need for some sort of 24-hour service provided. Some of that

service may be a service back in the home rather than one at the work place in terms of a centre to which the children are taken. I would hope that a lot more emphasis of this issue is coming from the women's bureau and yourself, Madam Minister, than what I've seen.

I was struck by one aspect of the trip to Sweden we were on with the select committee recently, in which the work places that we were visiting there, the government work places, dealing with highway safety and in their research facilities and government offices, there on the ground floor as you emerge from the building was obviously a day-care centre, in each and every one of the government buildings. I didn't go in and take a head count, but several times they looked to be out at a play period outside, the weather being rather fine, and the fewest number of children I counted there, all pre-school age, was 11. It was quite obvious that they've integrated day-care service at the place of employment. We see so little of that, if any, in the province of Ontario that we shouldn't lose sight of the need to be stressing that wherever we have women working to promote women's positions and women's advancement in the work place.

Hon. B. Stephenson: Having seen this both in Sweden, although I did not manage to see it as a result of the trip by the select committee, and also in China, I'm also aware that 24-hour service is not provided in either country, to my knowledge. I don't know of any jurisdiction in which that is done. Within the women Crown employees office, there was, with the support of the Status of Women Council and others, a study of the provision of day-care facilities and a programme was established. It's not geographically related to the buildings, it is related to the home areas of the workers themselves, with a co-ordinating function being served by the day-care co-ordinator, which seems to have worked reasonably well. But, the idea of taking children to an industrial plant and having a day-care centre in an industrial plant is one which bears examination, there's no doubt about that.

Mr. Bounsall: If it's a lead plant there is some constraint. There are constraints on the place to which you're taking them; it would vary with the job.

Hon. B. Stephenson: Yes, there are also some constraints.

Mr. Chairman: Mr. Mancini.

Mr. Mancini: Thank you. I'd just like to ask the minister about the philosophy of

equal pay for equal work and equal pay for work of equal value. Does that policy and philosophy come from the office of the executive co-ordinator of your ministry?

Hon. B. Stephenson: I don't think there's any doubt about the fact that the women's bureau, the women's Crown employees office, and the office of the executive co-ordinator, have had a great deal of input into the development of equal pay for equal work legislation and the changes in the legislation. They've also had a great deal of input into the development of the discussion paper on equal pay for work of equal value. Does that answer your question?

Mr. Mancini: Yes. I have one other question. I see there's quite an increase in the expenditure, especially in this programme. Could you quickly assess the reasons why—

Hon. B. Stephenson: Increase in expenditure? The overall decrease is—

Mr. Mancini: Oh! I'm sorry.

Hon. B. Stephenson: —due to the \$260,000 which was allotted to the programme for International Women's Year in 1975.

Mr. Mancini: I'm sure you'll allow each and every one of us a simple error.

Hon. B. Stephenson: Yes indeed, because I make them quite regularly.

Mr. Chairman: Shall item 1 carry?

Mr. Wildman: I want to ask a short question. In talking about affirmative action within government ministries, can you tell me what role the union—

Mr. Chairman: That's in the next item. Shall item 1 carry?

Item 1 agreed to.

On item 2, women Crown employees office:

Hon. B. Stephenson: Now you can ask the question.

Ms. Sandeman: On the women Crown employees office, I think there is no better place to start with a discussion of that office than on the excellent report that was presented last year, and I'm glad to hear that the next one is nearly ready. This provides a benchmark from which all of us can work in assessing how progress is being made. As you haven't yet been able to give us this year's report, perhaps I can ask you some questions. I'm sure you've got the material with you.

The thing I found really depressing about the first report was in the tables at the very beginning; and there is the following comment on page 1:

"Although some ministries can point with genuine pride at individual breakthroughs where women have moved into traditionally male occupations, the ministry-by-ministry analysis is depressingly repetitive in portraying a predictable sex-based division of labour."

I find that as depressing as did the people who wrote it. Did I understand you to say in your earlier remarks that hasn't changed too much; or weren't you addressing yourself to that when you said that in some areas there hasn't been any change?

Mrs. Eastham: In the sense that on a quarterly basis we update the information base that was established in the last year's report, in terms of overall average salaries there hasn't been any change and in terms of overall occupational distribution there hasn't been any change; but one thing we are conscious of is that although the programme, on a corporate-wide basis, is two years old now, for most ministries it's really only a year that it's been under way. So we won't realistically be expected to see much change in those overall figures, but we are asking ministries to keep track of what we call breakthrough appointments, individual promotions or changes.

Ms. Sandeman: Like Ethel McLellan?

Mrs. Eastham: Yes, she'll be reported in next year's report.

Mr. Bounsall: Are there any other breakthroughs to date?

[5:45]

Mrs. Eastham: The kind of breakthroughs we're looking at are not the ones that would hit the headlines but things like a woman who had worked as a clerk in a purchasing department becoming a purchasing officer, or somebody who is working as a clerk in a personnel branch becoming a personnel trainee, or somebody who is a secretary in Correctional Services becoming a trainee probation officer. These are the kinds of breakthroughs that we are tracking because that is where we see there is some movement.

Ms. Sandeman: In that last example, that would only happen if the secretary in question had a degree.

Mrs. Eastham: Well, there are some positions in Correctional Services that don't re-

quire a university degree, including probation officers.

Ms. Sandeman: The next section of that report—

Mrs. Eastham: And by the way, many secretaries have degrees.

Ms. Sandeman: Yes I know, that is very true; and they are mostly women.

The action plan and the action steps that were outlined as a forecast took us up to the period to March 1976. I wonder if you could tell us if the timetable was met and just what happened to that action plan? Did it work out in the steps planned?

Mrs. Eastham: You mean the five-step plan and the guidelines?

Ms. Sandeman: Yes.

Mrs. Eastham: The first four steps had by and large been implemented in our last reporting year. The main thrust in the last year has been that final action step requiring each ministry and agency to develop and file a written affirmative action plan. That has been done now. All ministries have now filed plans with us, which we have evaluated and reported back to the deputy minister.

Ms. Sandeman: I have been a little depressed to discover in other estimates committees that very few ministers can readily identify in their budgets a budget for the women's adviser and staff, if any. For instance, I was just in the committee considering the Attorney General's estimates and he had a full-page chart of who reports to whom. I couldn't find his women's adviser being reported to or reporting to anyone. Until we see that in the flow charts, we really won't be convinced they are convinced of the importance of these positions.

I just looked for interest through the analysis that was done, ministry by ministry, on where the ministries were last year. In many cases it was rather depressing. The comments were very reserved, but one could feel the undercurrents, particularly the undercurrents not directed so much at the individual ministries but at overall government policy, which gives a very low priority to funding affirmative action programmes and women's advisers. For instance, in Culture and Recreation the comment was made that the ministry is giving limited time and resources to this programme and that in Education they need greater commitment of time and resources.

It was an embarrassing moment for Mr. Wells when I had occasion to ask him who

his women's adviser was and he didn't know and I couldn't find anyone on his staff who knew. I phoned the ministry and said: "I can't find the women's adviser to the Education Ministry in the phone book, who is it?" I got passed from information services to the head of this and the deputy minister of that, and nobody knew. Then Tom Wells had to phone me, very embarrassed, and say: "Gill, well you see they were all out to lunch." And I said: "You can say that again." However, maybe by now the Education people have given greater commitment of time and resources.

Energy was said to have a limited programme. The Ministry of Government Services had no budget at all for the programme. Health, there wasn't much going on there. The Ministry of Labour comment was: "In spite of a promising start"—that reminds me of my school report—"In spite of a promising start there was no activity, apparently, between the report of the deputy minister's fact-finding committee in the fall of 1974 and the appointment of the women's adviser in March, 1975." I recognize that was before your time as minister.

Then there is a comment: "We congratulate the ministry on its data gathering, but we are somewhat concerned that the information gathered was never made public. In view of the limited time allocation of the women's adviser we recommend that she be provided with a full-time backup support to develop the affirmative programme."

I recognize we don't have time now for you to give us an update on all the ministries, particularly the ones that are doing badly, but I wonder if you could tell us if there has been more activity in the Ministry of Labour, because you would know that, and if you are now making data public. I would imagine you would say yes because of the fact sheets, which are very useful. Is that the kind of data you meant? Has the women's advisor to the Ministry of Labour now got full-time backup support?

Mrs. Eastham: I think the situation in the Ministry of Labour has changed drastically since those comments were made and I am sure Mr. Armstrong is the one to speak on that.

Mr. Armstrong: Yes, I can say that not only did the women's adviser not have full-time backup at the time that report was written, but the women's adviser was not full-time. I am pleased to be able to report that the women's adviser, Barbara Earle, is now full time and has full-time backup and

is doing a very active and worthwhile job within the ministry.

She attends our ministry committee meetings and is in weekly contact with me with some very useful and aggressive—in the best sense of the word—suggestions. You asked for information as to whether there has been any sort of dramatic breakthrough. I am pleased to be able to report that for the first time we have a vice-chairman of the Labour Relations Board who is a woman. The Labour Relations Board has a labour relations officer, a field officer, a woman for the first time. Those are two examples that we are pleased about.

Hon. B. Stephenson: We have one female conciliator. We need more of those.

Mr. Armstrong: There are two, Jean Reid and Dorothy Johnson.

Hon. B. Stephenson: That's right.

Mr. Armstrong: I think we had that last year.

Ms. Sandeman: You had that when the report was written.

Mrs. Eastham: I know that this year one of the things we have done in the annual report is to profile individual women who have made breakthroughs. The one who is profiled for the Ministry of Labour is a woman who started as a clerk in the ministry and is now a fairly senior executive officer in the staff services branch.

Mr. Armstrong: Since we are congratulating ourselves, one other example would be the Registrar of the Labour-Management Arbitration Commission, Mary Calarco, who replaced Don Rose. That is another senior appointment which ought to be mentioned. Within our small and modest complement we are making progress.

Mrs. Eastham: I think, not just going on about the Ministry of Labour but in general, some of our comments last year did have some impact in terms of either introducing or revamping programmes. I think you will find that the comments this year, in many of those cases you cited, will be more positive. In some they still are negative.

Ms. Sandeman: Is there any significant change in the proportion of women in high management positions or are you going to point again to the two or three mentioned and that is it?

Mrs. Eastham: Do you mean—over all we have repeated that section which we call

Life at the Top, which looks at women who are at the programme executive level or higher in government. The number of women in those positions has remained exactly the same. Some of the individuals have changed—there would be people moving in and out—but the number has stayed the same. That should be put in the context of the fact that there were complement reductions in the programme executive series in government over the last year so that women have held their own. They have hung in there but they certainly haven't improved their representation.

Ms. Sandeman: That must be rather depressing.

Ms. Bryden: Has the percentage changed from four per cent, which it was last year?

Mrs. Eastham: The numbers have stayed the same. The percentage will have improved because the total number you are looking at has gone down. I should point out that there is now a definite programme in the Civil Service Commission to change those statistics. The senior inventory which is used as a base for recruiting new managers in government has been extended to include high potential women who are now in senior professional and staff positions, and there has been an intensive interview programme with those women to identify their career objectives and to identify their training and development needs. So we are trying to develop a group of women who will be ready to move into any vacancies that occur there.

Ms. Sandeman: The women will be ready to move in? Are you sure the senior levels in the various ministries have reached a point where they take it for granted that women can move in? That's the other half of the equation.

Mrs. Eastham: The question of how much women are accepted is an attitudinal one. I don't know whether you can generalize to any great extent. One thing I do know is that the interviews that are being conducted for vacancies in the senior list now, I would say, almost all of them do involve active consideration of women candidates.

Ms. Sandeman: I would like to look very briefly at the section under women Crown employees in the ministry report which comments on the day-care counselling service, which dealt with 172 employee inquiries concerning child care arrangements and says

that this counselling service is now a regular part of the employee advisory centre.

I wonder if we could have a breakdown of the 172 inquiries which would mirror the breakdown given in last year's annual report on page 47, which showed that of a total number of inquiries between December, 1974, and March, 1975, there were 108 but only 12 of those could really be thought to have reached a resolution for the parents who came with the inquiry. What I would really like to know is how many of the 172 people who have come in with questions this year have gone away satisfied that they have found something reliable and safe and happy for their children?

Mrs. Eastham: I don't have those exact numbers at my fingertips. I would be happy to provide them to you. One thing I think should be explained is that in last year's report we were talking about the initial pilot project and there was a period in the past year while the new employee advisory service was being established when, although there was no advertising of the day-care service, many women did still approach the part-time counsellor for counselling, through word of mouth and certainly that was a demonstration of need. The new full-time day care counsellor has been in her job in Government Services about three months now, so I think from here on in we will have more complete statistics. It was really a sort of holding operation until the full-time counsellor was established, just three months ago.

Ms. Sandeman: I do have a minute do I? Another question that I wanted to ask,

among many, was around some of the recommendations of the green paper, specifically the green paper recommendation that the government undertake a major feasibility study of providing more part-time work within the public service, and then we are told there is a task force on part-time work. I wonder if you could give us some update on that? What's happening to that? Was the task force reported—if so I have missed it—if it hasn't, how's it coming along? What's happening to part-time work?

Mrs. Eastham: The task force has not reported but there have been changes in the regulations under The Public Service Act to make regular part-time work possible for management-excluded employees on an individual basis. To date, one ministry, Treasury and Economics, has used this change in regulations and I think it now has four women who, to assist them to return from pregnancy leave, are working on a regular part-time basis. To my knowledge, this change in the regulations has not resulted in any more women actually converting to part-time work.

Ms. Sandeman: Four out of 45,000 public servants isn't many, is it?

Mrs. Eastham: There's a combination there of desire on the part of the employees too.

Mr. Chairman: It now being 6 of the clock, I leave the chair and we will resume after question period tomorrow.

The committee adjourned at 6 p.m.

CONTENTS

Monday, November 8, 1976

Industrial relations programme	S-2871
Programme administration	S-2871
Conciliation and mediation services	S-2872
Labour management arbitration commission	S-2889
Women's programme	S-2889
Office of the executive co-ordinator	S-2889
Women Crown employees office	S-2896
Adjournment	S-2899

SPEAKERS IN THIS ISSUE

Bounsall, E. J. (Windsor-Sandwich NDP)
 Bryden, M. (Beaches-Woodbine NDP)
 di Santo, O. (Downsview NDP)
 Johnson, J. (Wellington-Dufferin-Peel PC)
 Lupusella, A. (Dovercourt NDP)
 Mackenzie, R. (Hamilton East NDP)
 Mancini, R. (Essex South L)
 McNeil, R. K.; Chairman (Elgin PC)
 Sandeman, G. (Peterborough NDP)
 Stephenson, Hon. B.; Minister of Labour (York Mills PC)
 Wildman, B. (Algoma NDP)

Ministry of Labour officials taking part:

Adams, G., Assistant Deputy Minister
 Armstrong, T. E., Deputy Minister
 Calarco, M., Registrar, Labour Management Arbitration
 Clarke, M., Director, Women's Bureau
 Eastham, K., Director, Women Crown Employees Office
 Pathe, V., Executive Director, Industrial Relations Division
 Webster, G. A., Director, Finance Branch



Government
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Legislature of Ontario Debates

SUPPLY COMMITTEE—2

**ESTIMATES, MINISTRY OF
THE ATTORNEY GENERAL**

OFFICIAL REPORT — DAILY EDITION

Third Session of the 30th Parliament

Monday, November 8, 1976

Speaker: Honourable Russell Daniel Rowe

Clerk: Roderick Lewis, QC

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CONTENTS

A list of the speakers taking part in the debates in this issue of Hansard appears, in alphabetical order, at the back of this issue.

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LEGISLATURE OF ONTARIO

SUPPLY COMMITTEE

MONDAY, NOVEMBER 8, 1976

The committee met at 3:05 p.m.

ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL (continued)

On vote 1206, courts administration; item 1, programme administration:

Mr. Chairman: Ms. Sandeperson.

Ms. Sandeman: Maybe the minister would like to follow the directions of the Speaker and give us the statement which he wasn't able to put on the record in question period because the Speaker ruled that we should discuss it in the estimates. Do you have the question that Mr. Renwick asked you?

Hon. Mr. McMurtry: Yes, I had a report in relation to it. I think the question was whether or not we were going to appeal the sentences in the Cotroni, Violi and Papalia matter. I started to say that there was no recommendation to launch such an appeal. That, firstly, was the view of our Crown law officers and I have no reason to disagree with their opinion that there was no error in principle in relation to the sentencing that would warrant an appeal.

I went on to say that the report touched on the fact that a good deal had appeared in the press in relation to the Montreal crime commission and in relation to the activities particularly of Cotroni and Violi. The report to me first pointed out, quite properly so, that none of this evidence would be admissible in our courts here in Ontario. I think some of the concern was that just judging by some of the press commentary that some people may have been influenced by the reports in relation to the Montreal crime commission. A lot of these reports were largely based on hearsay evidence which is admissible before such a royal inquiry. Such evidence could not be tendered in Ontario unless the facts were properly proved. That was one matter that I thought was relevant.

Secondly, it was pointed out that two of the principal accused were involved after

the event. There was an attempt, and I gather a successful attempt, to extort money from the complainant. Cotroni and Violi from Quebec apparently, according to the evidence, learned of this after the actual extortion had occurred, and attempted to share in the proceeds because their names had been used.

I think the Crown counsel did an excellent job of presenting the case. It was very complicated in law as to whether or not these people were actually guilty of a conspiracy, considering the fact that their participation occurred after the actual extortion and actually after the money was obtained. This would also be a fact that the judge would take into consideration in relation to the sentencing, the maximum sentence being 10 years.

The third feature of the case was that the complainant himself was an individual of something less than of high repute, and this is just one of several factors. I wouldn't say it actually mitigates the offence, but it was a consideration. I wouldn't say it was a factor in actual mitigation. The accused Violi and Cotroni, I gather, despite their prominence and their notoriety, also did not actually have serious criminal records. I gather the accused Papalia did on unrelated matters.

I recall, for example, from my own knowledge of this individual's activities that he was sentenced to a very lengthy term of imprisonment in relation to drug trafficking, an unrelated offence. But in any event, the complete criminal records were of course put before the trial judge, who had the benefit of this information. When he rendered the sentence all of this information was available to him. Furthermore, I gather Papalia's criminal record, which I referred to as being serious, was not recent. I've already talked about—I'm just looking at the report now—the fact that they were not involved in the original extortion. It was really a conspiracy to possess the fruits of the extortion.

I've already pointed out the fact, I think, that the victim was not the type of person who is so often vulnerable because of some infirmity or old age or something, but rather

was himself in the business of making loans at high interest rates. I gather there were also submissions made in relation to the age and medical condition of Mr. Cotroni. I think those are the relevant factors that were available to the court, Ms. Sandeman. Given the whole picture, given the evidence as it was, our counsel just simply didn't feel that they could properly argue that the trial judge had erred or committed any error in principle with relation to the sentences.

Ms. Sandeman: So the answer to Mr. Renwick's question is basically no.

Hon. Mr. McMurtry: Yes, it's basically no, which I said—

Ms. Sandeman: Yes, I think you did—

[3:15]

Hon. Mr. McMurtry: The difficulty was when you answer a question like that, having had some discussion, I knew that there was more to Mr. Renwick's question in his own mind than the actual question. So that was the difficulty you get yourself into. You're trying to respond to his concerns as he expressed them to me directly, quite apart from the question.

It's quite true I could have answered his question very briefly. But, when he mentioned it, I was thinking of the other matters that were concerns of his and, of course, concerns of mine, because certainly on the surface, at least, these gentlemen did appear to be candidates for the maximum sentence. But, after receiving the report I would have to agree that the Crown would hardly be in a position to argue successfully that there was an error in principle committed by the trial judge.

Ms. Sandeman: Thank you.

Mr. Chairman: Would the Crown indicate at the time of the sentencing or subsequent to the sentencing that he was satisfied with the sentence as rendered?

Hon. Mr. McMurtry: I wouldn't think that he would make any reference at all as to whether he's satisfied or not. In my view, that's the function of the Crown counsel.

Mr. Chairman: No, I just wondered. It seems to have come down somewhat that way.

We have Williston doing practice in the courts, and that report is not due for another year, maybe longer; is that correct? Then, we have a review going on internally with respect to summary conviction law in practice. How's that coming along?

Hon. Mr. McMurtry: Our report in respect to summary conviction procedure? We are very close to completing the policy submission for the consideration of the executive council, with a view to draft legislation to follow shortly thereafter.

Mr. Chairman: In next spring's House we might have legislation on it?

Hon. Mr. McMurtry: I would hope so.

Mr. Chairman: On Friday morning last I was launched into a series of matters that might be under consideration in order to expedite the courts, including the handling of divorce and diversion. I think by and large these things are well known to the department. The estimates have gone on quite long in any event. I confess to a certain weariness. I'm not going to pursue the matter. The only thing I want to touch on before desisting in the estimates this year has to do with the office of the role of justice of the peace.

I have received an undue number of communications, since the time of the last estimates, in this particular regard. I would take the time out to give to you, to the deputy, and to the official opposition, a copy of a document from Mr. Dahn Batchelor on deviant JPs.

Hon. Mr. McMurtry: Deviant JPs.

Mr. Chairman: This was written on May 11, 1976, to the Hon. Roy McMurtry:

"I am writing to you with reference to a problem that has been in our province for many years. This problem involves incompetence, abusive, lazy, party favourites, the justices of the peace.

"Constantly, I am hearing of complaints about many of these types of individuals and I, along with the rest of the public, am fed up with this arm of our system of justice.

"You well may ask why many people take the law into their own hands. They get no satisfaction at the first step of the judicial process, namely their dealings with JPs. I am going to give you examples about what is going on underneath your nose and shall continue unless you take the same interest in this matter as you have with violence in the game of hockey.

"Approximately a year ago, a justice of the peace was hearing a case in traffic court and the issue of identity was raised by the defence. This is a good issue because it is wrong to have the accused standing at the front of the court and ask a witness to point out the accused. The witness could never point out the accused if the accused was in a line-up,

that is after a year has gone by, he only knows who the accused is after the prosecutor stands beside the accused."

Just pausing there for a moment, that is not usually the method of identification.

"Nevertheless, the defence wanted the accused to remain in the body of the court so that the complainant could properly identify the accused. The justice of the peace objected on the basis that an innocent person would not be pointed out no matter where he stood and that if the accused was innocent, he should get in the stand and say so.

"Somewhere along the line this JP was never told that no one is obligated to get into the stand to prove his innocence. Later, I checked with the Law Society and found out that this JP was not a lawyer. Incidentally, he found the accused guilty. The accused took his case to a proper court and won his case.

"Two years ago, a man had his motor vehicle stolen by a former landlord and the police discovered the vehicle in the landlord's garage. It was returned to the rightful owner. The police told the owner to lay criminal charges against the thief.

"The next day the complainant went to the office of a justice of the peace and attempted to lay the charge. The JP said the entire matter was an exercise in frustration because it was redundant to lay criminal charges against a thief if the stolen item had already been returned. He refused to go any further in the matter saying that there was nothing under the Criminal Code that would justify the laying of a charge.

"The complainant went to the Crown attorney's office and complained. The assistant Crown attorney handling the matter called the JP and finally the JP laid the charge saying that he knew the section under the Criminal Code in which to lay the charge and didn't need Crown attorneys telling him what to do.

"Some time in January of this year, a young punk visiting our condominium kicked in my front door because someone placed stickers on his illegally parked car. It wasn't me but I'm on the board of directors and amongst other things, I am the parking administrator. After finally locating the address of this individual and confronting him and being told to go to hell, I went to see a justice of the peace named McLeod who was working out of the Dundas Street provincial court. This individual, after learning that the accused had had his car stickered, began telling me about how he had his car stickered once and that he would have laid

charges against the man who stickered his car. He said that if I insist in laying the charges, he will advise the accused to counter-charge me with malicious damage for stickering his car.

"Note: At no time did I say I had stickered the car. And yet I was faced with the dilemma of having to forget the entire matter because of the great possibility that this JP was going to arrange it so that I would have to go to court to defend myself against a charge that didn't involve me.

"On February 2 I wrote Judge Hayes and complained about this JP. In my letter I also advised the judge that I had spoken to Inspector Palmer of 23 division and that the inspector also had problems with this JP and found him to be abusive. I received a letter from the judge telling me that if I wished I could call his secretary and she would arrange for another JP to hear the case. There was no mention about what was going to be done about my complaint. I learned from Inspector Palmer last week that no one from the judge's office called him with reference to McLeod.

"Last week I received a phone call from a private investigator asking me if I would help two of his clients who were getting a runaround with justices of the peace. This is what happened.

"It seems that two men, Mr. Lehman and Mr. Freeman, one is a businessman, the other a fireman, and their wives were spending an evening at the Howard Johnson Hotel in Scarborough. When it was closing time, a waiter told them if they didn't finish their drinks, he would remove the drinks from the table. Some words passed and the waiter dared them to say that outside and then took off his jacket. When the men refused, the waiter said he would call the police. In less than a minute, two husky men approached the table and began manhandling the men and one threatened one of the women. Naturally the husband went to her aid and finally a fight took place.

"All this time, the two men kept yelling (the businessman and the fireman) 'Call the police. Call the police.' Finally when they were dragged outside, the two shabbily dressed men identified themselves as police officers. The group went to the police station in some cruisers.

"I have learned that the sergeant at the station didn't wish to lay charges because of two issues that came up: One, the police officers refused to identify themselves when asked; and two, they badly abused the two men, one of them sustaining serious bruises

up and down his arm, a black eye, and the other received a cut lip. Nevertheless, the two men told the sergeant that they were going to lay charges against the police officers.

"Enter the justices of the peace. The first one they went to was in the courthouse at Birchmount and Eglinton East. He refused to lay charges against the police unless there were independent witnesses. The second JP, whose first name was Ray and who had been in Florida in April, said that he couldn't see any black eye or any bruises and would only lay a common assault charge. He denied seeing any bruises. Despite that, photographs taken several days after the meeting with the JP at the old city hall showed considerable bruising on the arms and stomach of one of the men. When I learned of this I called Judge Hayes' office and was told that the judge would be too busy to discuss this matter with me at any time and I was referred to a Mr. Falkner. Mr. Falkner told me that he would arrange for JP Rottman at the old city hall to hear the complaint. On May 7 I took the two men and one of the wives and the private investigator with the coloured photographs to see Rottman.

"Rottman listened to the evidence and looked at the pictures. While he was doing this, several JPs stood just outside Rottman's cubicle and on one occasion I overheard one of them discussing the case with two police officers. I always thought that was a no-no. In any case, Rottman spoke with the JP called Ray and then asked us to leave for half an hour.

"When we returned, his first question was, 'Were there any broken bones?' That question meant something to the two men. It seems that the complaint bureau had been calling up several times and asking the same question. Then we realized that Rottman had been asked to ask the question. He then stated that as far as he was concerned, unless there were broken bones he would not lay a charge of assault causing bodily harm against the police officers.

"I reminded him that the police department was concerned about this case and that the department had suggested to the two men that they should lay assault-causing-bodily-harm charges against the two police officers. I asked the JP how he arrived at the conclusion that only broken bones constituted assault causing bodily harm. He pulled out the Criminal Code and showed us the section that states the justice of the peace has sole discretion in deciding what charges should be laid.

"I contacted Mr. Rickaby, the Crown attorney for York county, and he was very concerned about this state of affairs. He suggested that I take everyone to see one of his senior assistant Crown attorneys, specifically, Mr. Warren at the old city hall. This we did and Mr. Warren acknowledged that this was definitely a case of assault causing bodily harm and after consulting with Mr. Rickaby we went to the JP's office. The justice of the peace (not Rottman) after being confronted by an assistant Crown attorney, the lawyer of the two men, the photographs and witnesses filed the charges.

"This entire process took from 8:30 a.m. until 4:30 p.m. I would add that one of the men told me that that particular JP had been drinking, because he could smell the liquor on his breath right across the office. He also added that the JP also stumbled. I wonder if the charges would have been laid if the JP was sober.

"What I have given you represents a drop in the bucket as to what is really going on. I have spoken with members of the Legislature, lawyers, the police and private citizens and I have come to the conclusion that you have a problem.

"When we met at a conference not too long ago, I asked you some questions and you replied that judges were a breed all of their own and there wasn't too much you could do about them. Well, some people believe that there isn't anything you can do about justices of the peace.

"I believe there are vast changes due and I would like to suggest the following:

"1. Replace Judge Hayes since he has proven his lack of concern over the behaviour of justices of the peace;

"2. Permit no more appointments to the position of justice of the peace unless such appointees are members of the law profession.

"3. Submit every justice of the peace who is not a lawyer to courses on law (criminal law) at the rate of one month per year until they have learned as much criminal law as lawyers.

"Please write me and advise me of your thoughts in this matter."

Well, that's the tip of the iceberg. I have and will go into several other cases I have before me and some of which you could very well anticipate with Margaret Parker. Somewhat the same tenor of events, the same quality of treatment of the public. Apparently, working under some directives with respect to police laying certain charges in the line of assault or assault causing bodily harm. The general department of that office, the

situation that you have, numerous justices of the peace, the recriminations, I suppose is the word used by Mr. Justice McRuer down through the years as to these numerous individuals, 600, 800 of them around the province, and they're dead, some are still on the rolls, some who are non-functioning and if they are functioning, doing so on half a cylinder.

The whole justice of the peace thing needs a very thorough and searching review by your ministry. It's dragged on and as far as I know very little has been done about the matter. Their training is grossly inadequate. I know you are making some kind of stabbing gestures in the night to improve the situation but the pay scales are deficient in order to require a minimum of any quality for the job.

[3:30]

It's a sinecure for a good many men. One would come across that in Margaret Parker's statements that people who have been court registrars or ex-police officers or any number of so-called people on the inside who are looking for some kind of job, etc., make application and have top ranking, and, I suppose, some kind of priority with respect to your appointments. All these things represent something of a quagmire. I would be interested in your response to Mr. Batchelor, what it was and what it is today.

Hon. Mr. McMurtry: Unfortunately I don't think I saw Mr. Batchelor's letter personally or I would have recalled it because I do know Mr. Batchelor. I have had a number of conversations with him about other matters. As a matter of fact, I have seen him since the date of that letter and he never raised this matter with me. He has been corresponding with the ministry since 1973 expressing his concerns. The matters that he raised in his letter of May 11, 1976 were referred to Chief Judge Hayes, who investigated all the matters that were raised by Mr. Batchelor. Chief Judge Hayes was unable to find any substantiation for the allegations. Chief Judge Hayes, in my view, carries on his duties with a great deal of integrity and effectiveness, and so the proposal by Mr. Batchelor that Chief Judge Hayes be replaced is not acceptable.

Secondly, as you know, to appoint lawyers as justices of the peace would require paying justices of the peace a salary commensurate with what is paid provincial court judges, and would involve an additional expenditure. I suppose you would be talking about virtually millions of dollars. I don't think it's necessary.

I agree that we should continue to strive to upgrade justices of the peace. These justices of the peace are not appointed, to my knowledge, without the concurrence of the Chief Judge, who causes some investigation to be made with respect to the qualifications of all of these people. A local provincial court judge is invariably consulted with respect to these appointments. Many of them come up through the court system, which I think is desirable too. I reject any suggestion that JPs are political appointments in the sense that their qualifications aren't given the highest of priorities.

The Chief Judge does supervise the JPs. As I indicated the other day, that is as it should be because they do perform quasi-judicial functions and should act under the direction of the Chief Judge, as was recommended by the Law Reform Commission, and not under the direction of the Ministry of the Attorney General, in order for them to exercise some degree of independence with relation to their important decisions, particularly with respect to whether or not the criminal process will be invoked in a particular case.

I've discussed the matter with Chief Judge Hayes and he seems to be making a real effort to continue with these education programmes. Perhaps Mr. Wright can give you specifics, Mr. Chairman, as to what these education questions involve.

Mr. Chairman: Yes, I would like to know about that.

Mr. Roy: Could you give us a pay scale too while we are at it? I would like to know the pay scale.

Mr. Wright: Mr. Chairman, I believe there has been new legislation that has come in requiring that there would be a direction by a provincial court judge for justices of the peace. I believe there has been a significant improvement. I would suggest that there are a little over 1,100 justices of the peace appointments. But, of this number, approximately 650 have directions. In other words, if you start at the bottom with the person who has no direction, but is a justice of the peace, his only power would be as an ex officio commissioner for taking affidavits. So when the legislation came in, everybody could be interviewed by a judge in their areas, so you can see that a significant number of the justice of the peace appointments were not given directions. In order to give these directions, the judge interviewed the person and then gave that person what he felt would be an appropriate direction ac-

cording to his knowledge of justice of the peace duties.

If he has a D direction, he would be allowed to swear informations. If he has a C direction, he could swear an information plus execute a search warrant. If he has a B direction, he could do those two plus sit on bail applications. If he has an A direction, he could do all of those plus be a sitting justice of the peace to hear the provincial liquor offences and Highway Traffic Act. So I feel that the legislation has brought about a significant improvement in this.

Along with that, Chief Judge Hayes inaugurated a very extensive training programme which has completed its third year and a similar programme is planned for the spring of 1977. There is a committee composed of Chief Judge Hayes, Judge Bice, Judge Hutton, Judge Perkins, John Greenwood, who is director of Crown attorneys, and two Crown attorneys, Drinkwater and Minehart, which has prepared this material. They have distributed to the justices of the peace papers on various topics, a justice of the peace handbook containing the selected statutes which they deal with every day, sample forms relating to the Criminal Code process, and a copy of the Criminal Code.

They also prepared some videotape presentations, and last spring there were three-day sessions for justices of the peace in the following locations: Burlington, Chatham, Kitchener, North Bay, Peterborough, Ottawa, St. Catharines, Sudbury, Thunder Bay and Toronto. They estimated that approximately 600 justices of the peace in total participated in these programmes. So, most of the justices of the peace who have A direction have participated in one or more of these educational seminars. As I indicated, in the spring of 1977, the Chief Judge and the committee plan to hold similar seminars in various places throughout Ontario.

In justice of the peace salaries, you have really two categories, or I suppose three categories. You have justices of the peace who are on fee basis only. Then there are the ones who are on a full-time basis—the full-time justice of the peace and the full-time sitting justice of the peace. As of January 1, 1976, the salary for a full-time justice of the peace was \$16,855. For a full-time sitting justice of the peace, \$19,246. That would have been now subject to a further increase, as of October 1, 1976, of approximately seven per cent or eight per cent on top of that.

Mr. Roy: Nineteen thousand what?

Mr. Wright: \$19,246 is the sitting justice of the peace.

Mr. Roy: That's a sitting justice. That's in your A category?

Mr. Wright: That's in your A category, yes.

Mr. Chairman: How many of them are there?

Mr. Wright: There are approximately 58 full-time justices of the peace. We are presently in the process, and we had it in the budget for this year, of appointing 20 additional ones. Because of the funding process, etc. and the shortage of money in the ministry for all of our projects we've had to delay certain appointments. Now that the year is half over we are going to proceed to appoint these 20 and we only have to be concerned about half a year's salary for the remaining year. So Chief Judge Hayes and the ministry have now agreed to appoint the 20 additional justices of the peace which will bring the number to 78.

Mr. Roy: If I may, Mr. Chairman, your full-time justices of the peace get \$16,065?

Mr. Wright: It's \$16,855.

Mr. Roy: A full-time is not a sitting justice? That's the one in the B category?

Mr. Wright: That's right.

Mr. Roy: I see. And sitting justices of the peace—you have 58 of these?

Mr. Wright: I don't know what the breakdown is. They are all on full-time salary. There are 58 of them, but I don't know what the breakdown is between a full-time and between the one who is only sitting full-time. Most of those are in Toronto; most of the full-time sitting are in Toronto.

Mr. Roy: Just so I understand that, a full-time JP gets \$16,855. Okay? But if he is sitting full-time, he—

Mr. Wright: He gets \$19,246.

Mr. Roy: I see. Don't you have any of those in Ottawa?

Mr. Wright: Yes. I believe there are two and we are proposing that there be at least one or two more in Ottawa.

Mr. Roy: But a full time can sit part-time? He can sit still?

Mr. Wright: That's right.

Mr. Roy: But not on a full-time basis?

Mr. Wright: Yes.

Mr. Roy: I don't want to encroach on Mr. Lawlor's time but there are some other matters I wanted to raise on justices of the peace, with your permission.

Mr. Vice-Chairman: Perhaps we will let Mr. Lawlor—

Mr. Lawlor: I would like to complete my presentation. There is just one question arising out of the reply though. These three-day sessions, I take it, are addressed by various levels of the courts, by the judges, particularly by provincial court judges, and Crown attorneys participate and lecture, if you will, on particular aspects of bail procedure or laying of summonses, all this sort of thing—

Mr. Wright: That's correct. And any amendments which have taken place during the past year, etc., in the Criminal Code.

Mr. Lawlor: Well they sure need it.

I have before me a fairly large pile of paper. I don't know quite how to handle it. I think I'll just start reading and stop. It's a case of Regina versus Malcolm; submitted to me by Mr. Maltow of Rosenberg, Smith, Paton, Hyman and Maltow, barristers and solicitors. It involves a lengthy correspondence with the Crown, with a Mr. Leggett to begin with—letters going both ways. And somewhat splenetic and absurd letters going both ways. And then enter the harlequin of the play, Mr. Langdon on May 11, 1976. As only Herb can do, his letters are short and I think the word is "punchy." In spite of that it makes, from a purely adversary position, quite delightful reading, the trading of blows in connection with the case involved. I suppose the easiest way to get the basic facts on the records:

"I am writing you on behalf of my client, Mr. Samuel Malcolm, of Concord Avenue, Toronto. Mr. Malcolm has recently undergone certain experience in the provincial court, criminal division, of Metropolitan Toronto which raises important issues regarding the administration of justice which my client would like to bring to your attention.

"Mr. Malcolm is 43 years of age, a welder by profession, a Canadian citizen, a black West Indian by birth. He has no criminal record as far as I know and is held in fairly high regard by many people who know him.

[3:45]

In July 24, 1975 Mr. Malcolm had an argument with one Norma Godelia a woman with

whom he had been living for some time in Toronto. As a result of that argument, Mr. Malcolm decided to leave the place where he had been living, which was Mrs. Godelia's home, and take up residence elsewhere. He then proceeded to remove his belongings from the residence and move them to his car which was parked a short distance away in a parking lot which served that residential project. In the meantime, Mrs. Godelia apparently became hysterical and called the police. While Mr. Malcolm was in the process of removing his belongings two police officers arrived. What took place during the ensuing is not clear and there are various versions to these facts.

"In any event, it is clear that an altercation took place between Mr. Malcolm and the police officers. This altercation was witnessed by 15 or more residents of an adjacent apartment building who were brought to their balconies by the noise. As a result of that altercation Mr. Malcolm was arrested and charged with assaulting one of the police officers in the execution of his duty.

"After obtaining corroboration of Mr. Malcolm's version of what occurred—which essentially was he had not assaulted the police officer, it was they who assaulted him—I advised Mr. Malcolm that he was entitled to lay charges against the police officers for assault causing bodily harm, if he chose to do so. Mr. Malcolm decided to exercise this right and asked for my assistance in helping him lay an information against the officers.

"Both I and Mr. Malcolm attended on July 29, 1975 before His Worship L. Fretes, Esquire, Justice of the Peace. Mr. Malcolm described the altercation to him and requested the right to swear an information against the officers. The justice accepted the information, but initially refused to either issue a summons or warrant to compel the attendance of the police officers at court. The justice also, in his own motion, called the police division where the altercation had occurred and in my presence obtained an oral report of what had occurred from the sergeant in charge. The justice then stated that he would not issue any further process until evidence was brought before him to corroborate Mr. Malcolm's version.

"Later that day Mr. Malcolm and I re-attended before the justice together with Mrs. Godelia. Mrs. Godelia corroborated Mr. Malcolm's version of what had occurred, and her evidence was transcribed. After much persuasion and with much reluctance the justice then issued summonses compelling the attendance of the police officers in court. Knowing that such summonses would be required to

be served only by a police officer I took the summons to the summons office—"

And then he had difficulty. It comes down on that particular point that the summons office refused to serve the summonses on the police officers. It continues:

"On August 25 I received a telephone call from Staff Sergeant Freeman of the complaint bureau of Metropolitan Toronto. Mr. Freeman advised me that a counsel whose surname was Allan, employed by the Ministry of the Attorney General, had been appointed to prosecute the police officers. Mr. Freeman asked if I and Mr. Malcolm wished his assistance in preparing the instructions—" And then it develops from there.

Subsequently: "I sent Mr. Freeman a transcript of the evidence given by Mrs. Godelia before the justice of the peace at the time Mr. Malcolm's information was sworn. On March 18 Mr. Malcolm and I attended at the provincial court, criminal division, No. 42 Old City Hall, where a special court had been assigned to deal with the charges against both Mr. Malcolm and the officers. His Honour Judge Donald Graham presided. As I entered court I learned that there was only one Crown counsel assigned to conduct both prosecutions. Counsel's name was Webster, and I understand that he was in private practice, and had been retained by someone to conduct these prosecutions—"

We can pause for refreshment. Earlier in these estimates—

Hon. Mr. McMurtry: He is a part-time assistant Crown attorney.

Mr. Lawlor: Is he?

Hon. Mr. McMurtry: Yes.

Mr. Lawlor: Okay. So I won't pause to refresh. You anticipated my question.

He didn't like the way Webster conducted the hearing—failure to call witnesses and various matters of that kind. Then he comes down, on the fifth page, to a series of questions.

Oh, pause here. Does the Attorney General or his deputy know about this situation?

Hon. Mr. McMurtry: Well, as you were reading it, Mr. Lawlor, it seemed to me that I have some recollection of it, particularly in relation to an incident that happened with respect to some remark that was made by Judge Graham.

I know Mr. Maltow very well. And I remember I saw some correspondence in which it was alleged by Mr. Maltow that Judge Graham in effect negotiated unofficially the

resolution of the matter in a rather interesting fashion.

Mr. Lawlor: The inimitable Herb Langdon said, in effect, I'm paraphrasing, "What are you kicking about? The charges are dismissed against the police officer. Judge Graham called you up and whispered in your ear that if you pushed this matter too hard, he'd probably dismiss the charge against your client, too," and proceeded to do so. He said, "What are you kicking about? They're all dismissed. That's the end of the road." Maltow doesn't think it is. He thinks he got mauled and badly treated in the process, particularly by the justice of the peace.

His six questions are—I'm not going to read them all, I don't think:

"1. Was it proper for a justice of the peace to conduct his own telephone investigation of the altercation between Mr. Malcolm and the officers?"

In other words, the justice of the peace, instead of taking at its face value, on a deposition, what a member of the public states as the context, goes behind him and consults with the police, the very ones against whom the charges are being laid. Is there something improper about that?

Hon. Mr. McMurtry: Yes, absolutely.

Mr. Lawlor: All right. I don't think that's quite the reply that your subordinates gave. They didn't think that was too improper. The second question:

"What was the proper procedure for me to follow in getting the summons issued, that the justice served on the officers? Was the officer in charge of the summons office justified in requiring a written statement from Mr. Malcolm before accepting the summons for service?"

I doubt if he was. You bring the summons to the office. The answer given by the Crown is you can get your summonses served any way you please. There's a sheriff's office which handles the service of summonses and—

Hon. Mr. McMurtry: I don't think so. Just stopping there, Mr. Lawlor, I think the summons, if it's a criminal process, should be served by the summons office and not by the sheriff or anybody else specifically paid for that purpose. That's my understanding but perhaps—

Mr. Lawlor: It is my understanding, too, but Mr. Maltow did have to take it to the sheriff's office and did have it served through that office.

Hon. Mr. McMurtry: I don't know why he'd have to do that.

Mr. Lawlor: Maybe some of this—that's why I don't want to dwell on it too long—with the Maloney report before us and a revamping of that whole procedure coming before us fairly soon, through the Solicitor General (Mr. MacBeth), I think it obviates a lot of these points being made.

I'm not going into the rest of the points.

Mr. Leggett says, though, and I want to mention this, on August 1, 1975, in a letter to Maltow:

"1. As I have already explained to you in some detail, our office does not prosecute police officers charged with criminal offences in the judicial district. When the case is set for trial, Crowns from other jurisdictions or from the Ministry of the Attorney General are assigned to the case." That is in line with what you said previously and that is your policy. "I cannot see what difference it makes who serves the summons as long as the peace officer effects it in accordance with the law. The complaint bureau needs a statement of the evidence to properly prepare the case for trial."

That's okay.

Hon. Mr. McMurtry: We indicated our general policy but at the same time I think Mr. Callaghan indicated that we do leave some discretion with the local Crown attorney. What was happening was that every time a citizen was charged with assaulting a police officer, one of the defence tactics that became almost universally employed was to send the client down and have him or her lay a counter-charge of assault against the police.

Obviously this could create a great deal of difficulty in having to bring a Crown attorney from outside the jurisdiction or outside the county for all of these. It certainly could disrupt the activity in adjoining areas.

Mr. Lawlor: You would agree the other way around, though? If the person desiring to lay the charge got there first—I can see the counter-charge situation—if he lays the charge in the first instance and then the police, in effect, counter-charge, there's perhaps not the same difficulty.

Hon. Mr. McMurtry: No, I agree. I think obviously different considerations should apply.

Mr. Lawlor: Well, if you want a moment of titillation some afternoon or late at night when you're at your office, Mr. Attorney General, read the letter of W. H. Langdon,

deputy director of Crown attorneys to Mr. Maltow of May 11, 1976. It's long and I won't read it into the record. And, read then the subsequent reply on the following day from Mr. Maltow. I will bring a bit of that into the record:

"Thank you for your letter of May 11. Your letter contained the following errors of fact with respect to matters about which I have personal knowledge. These facts do not depend on the veracity of anyone's version of what occurred other than my own.

"I firstly resent your absolute unqualified statement of the fact which indicates that you disbelieve what I have written. Following are details of your obvious errors:

"I did not oppose the idea of the summons being served on the police constable. To the contrary, the very reason for my going to room 212 at the old city hall was to request the police department to effect service of the summons as I had been directed by the justice of the peace to do.

"You state, No. 2, that the sheriff's ledger shows no witnesses' subpoenas issued listed by you or your firm. I enclose herewith copies of the affidavits.

"No. 3. You state the authorities have been unable to find any records that the five witnesses mentioned at the top of the fourth page were in fact subpoenaed. With respect, the enclosed affidavits of service would indicate that the authorities did not search very hard."

That is the tenor of the exchange in that particular matter.

All right. Again, we have a certain resistance, a certain playing around with the public, even in the presence of the solicitor, at the justice of the peace level trying to get charges laid.

I'll come now to the final list of difficulties. Again, the file is thick and lengthy, but I will go on it for a moment because this is an extraordinary situation. The Attorney General and his department know, I have no doubt, intimately, and in detail, about the nostrums of Margaret Ellen Parker, who had formerly worked with the Hon. Dalton Wells for many years in his office and was the first woman appointed as justice of the peace. She got the job at the provincial courts at city hall. She was appointed on June 6, 1975.

"At the time of this office appointment, no one, including the deputy Attorney General, was able to tell me the specific duties I would be expected to perform as a full-time justice of the peace operating out of the

old city hall in the municipality of Metropolitan Toronto."

Mr. Callaghan: She never asked.

Mr. Lawlor: I would turn to page one—

Mr. Callaghan: I think I could make one statement with reference to Margaret Parker before you put down too much of what she said. She requested the job of justice of the peace. The Chief Justice was changing. The new Chief Justice did not want her in the office. She was very eager to become a justice of the peace in the city hall at Toronto. I made it plain to her that there was a world of difference between being secretary to the Chief Justice of the High Court and being a sitting justice of the peace at city hall. She was fully familiar with what she was getting into.

As it turned out, the working conditions there are not the best. Nobody's ever said that. But, they were so far removed from what she had been used to because of the differences in physical plant from the Supreme Court and the provincial court JPs, that, quite bluntly, she was not able to meet the gap.

[4:00]

The pressures they work under at city hall, the circumstances and the conditions under which they work are very very difficult. She was used to the padded halls of Osgoode Hall with the quiet doors and the nice carpet on the floor and the tea at noon. She got down where justice is really delivered and she was just not capable of meeting it.

She got this tremendous coverage and put a blot, I think, on a great number of dedicated justices of the peace down there who work very, very hard in intolerable conditions. Yet she was only there for six weeks and was able to slander the whole operation. I just wanted to make that statement before we went too far down the line with Margaret Parker.

Mr. Lawlor: All right. That's a lot of balderdash. The position is to the contrary. She is a highly intelligent woman who was brought into the thing and who has the temerity to speak out when she finds that something is dreadfully wrong with the operation of the system and as to what's going on. There are any number, which I am going to recapitulate. Citizens of that type have to be listened to and given a hearing.

Thank heavens Margaret Parkers arise from time to time. All the rest go about in conformity and quietness. This is their

job and they are not going to jeopardize a damn thing. She's sufficiently independent to tell you what she thinks about you and so she has to take a bit of slander herself in the process. There are two sides to this particular coin.

Mr. Callaghan: That's one way of looking at it. I just disagree with what you say entirely in that regard.

Mr. Lawlor: She said: "I was therefore extremely reluctant to accept the position. Having worked for lawyers in the city hall, for the city, prior to working for Chief Justice Wells, and having taken a criminal law course, I was aware of some of the functions carried out by JPs on a broad scale but nowhere in The Justices of the Peace Act does it state what they do in Ontario and the county of York.

"However, I was informed by the director of personnel of the Attorney General's department that there was a training scheme for JPs in the province and I would be under training for at least six months before I would be on my own, sitting in minor traffic courts doing bail and hearing complaints under the Criminal Code. This affirmation of assurance of at least six months' training, if not more, was reiterated by Chief Judge Hayes, who is in charge of the provincial courts, criminal division.

"In an interview I had with him on July 14, 1975, on that basis I agreed to accept the appointment and he, in turn, said he was quite willing to sign the certificate of approval which is required under section 2(2) of The Justices of the Peace Act."

She gives the section. I am not going to read it all. It is a fairly searching indictment of what is happening. She goes on: "On August 11, 1975, I reported to the supervisor of JPs at the old city hall. From that day until the date of my resignation I received no formal training at all and obviously none of the JPs from the county of York ever received any. At the ministry at my last meeting Mr. Blenus Wright's assistant again assured me that there is a training scheme for JPs in the province and there well might be one somewhere. It certainly doesn't exist in the county of York.

"I went into the city hall on August 11, 1975, with a lot of encouragement and assurance from many people, including the old Chief Justice, that I would make a good JP, together with determination on my part to work hard and learn and serve the public at all times without bias and with as much common sense and knowledge as I could

muster. I resigned on November 28, disgusted with what I considered to be an appalling situation and quite convinced that the public is not being served properly and cannot be under the existing conditions and attitudes prevailing at the lower court level of the county of York.

"Problems exist on several levels and perhaps with one of these I might have tolerated the situation and seen some hope for changing same, but obviously a slow erosion has been going on for years and it has now reached the stage where it will need a minor miracle to rectify anything at all. JPs come under what I call a closed shop with two or three exceptions. Apparently the ambition of all court clerks, office clerks, court interpreters and court reporters who work at the city hall is to be elevated to the position of justice of the peace. City hall is where they all come from. Full-time as well as part-time JPs are drawn from a very narrow environment. As the work load gets heavier in the courts, someone else from within is recommended either by Chief Judge Hayes, I believe, or the supervisor of JPs, and the promotion goes through.

"I wonder who they have replaced me with. There was talk of some of the Hungarian court reporters being next in line. However, sometimes the ministry or someone else must pop in an odd outsider for there are a couple of ex-policemen and ex-campaign workers for the Conservative Party. Presumably I got popped in because of International Women's Year. Coming from outside, one is not exactly welcomed with open arms.

"The attitude of the supervisor of JPs was quite clear with his opening statement: 'Well, lady, I think it's most unfair, of course, to make you a JP when you know nothing about this area at all and there are many qualified people here who want and need the job. Obviously you have influence.'

"To my reply that I certainly didn't know much about the provincial court level but was considered fairly bright, had been in the law for nearly 20 years, and could work very hard to observe everything I could during my six months' training period, he informed me: 'You get no special training here; it isn't the way we do things. Like the rest of us, you'll get on with the job; that's the best way to learn'.

"A good beginning, I thought as I finally staggered out of his office at the end of two hours. Two hours, I might say, during which this disgruntled gentleman went full steam ahead to enlighten me on the horrors to come, namely: 'Did you know you can be sued?' One of my boys is being sued right now.

You're not in your fancy office any more'—that sounds a little like Frank—"You'll soon find out that the ministry doesn't give a damn,' etc., etc.

"In his own Mad Hatter style, the gentleman spoke the truth. There was no training. No one gave a damn. I was just dumped with various JPs who were around. If I was fortunate enough to be put with a JP who was both intelligent and helpful, I thought I was suddenly being given a lucky break; if not, too bad. I was never left in one area long enough to absorb a complete situation.

"This so-called six-month training period was a chancy and ludicrous thing. My misgivings were many and to this day I was amazed at my colleagues. Right away, sans training, they were plunged into the business of being a JP, hearing complaints, signing warrants, sitting in court. Obviously, ignorance is bliss."

Then she talks about the different levels, A, B, C, and D.

"This written direction I discovered tells the JPs whether they are an A, B, C or D justice of the peace; at least, that is what happens in the provincial courts. All my colleagues, with one exception which I will come to later, were A justices of the peace. They could do everything. Everything now covers a very broad spectrum. They take turns at hearing and processing complaints on the Criminal Code in room 6, work in the bail office, go to the Don Jail, sit in traffic court, bylaw court, liquor control court. (In fact they are sitting in more and more of the courts that one time were exclusively the area of the provincial judges.

"I see that quite often. When they are short of provincial judges, JPs are sitting in criminal courts, taking show-cause hearings, setting bail conditions, etc. All of this they can do right away if they have an A direction from Mr. Justice Hayes.

"Both the supervisor and Chief Judge Hayes went on vacation shortly after I arrived. I was sworn in by Judge Rice and did not receive any of those written directions; neither did I expect to, having only taken the appointment on the understanding I would be under training. The last thing I expected to be doing was actually signing legal documents many which I had never even seen before. However, five weeks after I started training, I was told by one of the supervisor's aides, that the whole place resembles a military establishment in more ways than you can imagine and that Chief Judge Hayes wished me to take a written examination on the following day.

"When I discovered that no one with the exception of an elderly ex-policeman, who had already been a JP for three years when he was told to take this exam a few weeks prior to the request to me had taken a written examination; that it was an exam on procedure which I presumably was in the process of learning; that the exam was to grade me so that I was given a written direction to sign documents—and not to worry, most of the JPs wouldn't be able to answer the questions anyway—I said no. I then asked the person to please inform Chief Judge Hayes that I was not willing to take the examination. The whole request was unrealistic, like giving a person a driving test after three lessons, and I didn't like the rules being made up as we went along.

"After the shock of my 'no' had worn off, the whole city hall was agog. Apparently no one ever refused any request or command from above. The poor old JP who alone had taken the exam had written the thing in a great state of agitation but had not dared to say no. As a result of his pains, he is now confined exclusively to the horrors of the bail office. He has since told me he wishes he has my courage maybe the correct word is audacity—and is the only one of the JPs who is willing to discuss the discriminatory treatment he feels he has received at city hall.

"The day after this ridiculous request for an exam, I was called upstairs to the aide's quarters. He, poor man, had the unpleasant job of passing my message to Chief Judge Hayes which I am sure he did very diplomatically, after complimenting me on my 'lack of fear of the high command,' he said. And he warned me of the trouble I might find myself in in the future. He had agreed with me that the whole thing was unrealistic and added that the place is a mess, and what could they, the JPs do? Speak up, I said.

"I feel my words were wasted. Anyway I was told I was expected to take a different exam very soon and that everything was in the red book. On checking I found it wasn't and in any case quite a few of the questions really shouldn't be answered by a straight yes or no. They should receive qualified answers.

"Three weeks later the supervisor of the JPs who had been giving me quite a rough time—'You're no use to me, lady, unless you can sign things' etc.—brought me to a point where I decided to go back to the director of personnel because I had already continued coming to the conclusion that I didn't want the job. A meeting with Hayes the day before while I was in court—I had 'better hurry up and take the exam'—spurred me on, especi-

ally as I had now been banished to York township, to be followed by a month at Scarborough, to potter around there.

"Does it remind you of the army? It certainly did me. But I was young and foolish in those bygone days, like the rest of the world, and could take it more philosophically without questioning. Still, the business of armies is kidding. It certainly has nothing to do with seeing that justice is done."

Then she meets a Mr. Mitchell and talks about physical conditions in the courts, and that's reflected in a lead editorial on December 29, 1975, in the Toronto Star.

"No desk, no lockers, no office, no library, no filing cabinet. One is shared by all JPs in room 6 and even this miserable cabinet has no lock. No place to put law books. Most JPs, if they're interested enough—many aren't—keep certain statutes of the Criminal Code in their cars; no typist facilities; only information, warrants, etc., are typed for them. Any reports or letters they have to do, they see to themselves. So since even a typewriter isn't supplied presumably they do these by hand.

"There's no security whatsoever. The bail office and room 6 are easily accessible to any irate member of the public and there are many milling around. I was told of a couple of unpleasant incidents that occurred. JPs use the public washrooms at city hall, which could certainly create an odd situation, if one had just convicted somebody in court. I was given special privileges and was allowed to use the secretaries' washroom. Three cheers for the special privileges.

"Legal position: JPs have no legal rights at all. They seem to have joggled along for years under some sort of gentlemen's agreement. The buddy system was well in evidence, for it seemed to be the only protection they had. No provincial Act states the rights of JPs. I checked the JPs Act, The Provincial Courts Act, The Inspector of Legal Offices Act, The Judicature Act, and The Public Service Act. They have no tenure of office such as judges or civil servants. Overnight they go from being a civil servant with rights and representation to being a justice of the peace with none.

"When I brought this to the ministry, the answer was presumably, 'Check back with Chief Judge Hayes.' Well, if you do the job properly you have nothing to worry about.

"The Public Authorities Protection Act says under what circumstances JPs can be sued—one is actually being sued right now—and when they may be given counsel. If they act out of their jurisdiction they cer-

tainly won't get anything in the way of help, and even under the best circumstances the word 'may' is ambiguous.

"Since the county of York JPs' jurisdiction changes by the minute, as they hop from Act to Act and document to document, dealing with an enormous amount of work and constantly under pressure, The Public Authorities Protection Act is no protection whatsoever.

"I don't know a single lawyer in this city who would operate without insurance to cover an easily made human error, and certainly you wouldn't be able to recruit any police if The Police Act didn't cover this area fully.

"Lack of proper legal back-up: The constant amendments every day of the week of the Ontario Legislature for some reason are not fed to JPs. The RSO 1970 and the latest Criminal Code are available and copies of provincial statutes are given to JPs when they are appointed, but only those where the JPs have jurisdiction, and that is always changing also.

"No amendments anywhere. I never saw any revised regulations. One amendment of The Highway Traffic Act having to do with mopeds, and an amendment to the municipal bylaw on body rub parlours, were the only amendments that came my way during the whole period I spent there.

"As for provincial prosecutors at the level of minor traffic courts and bylaw courts—I don't know about any other level—they also are more learned in the law than their colleagues, the JPs, on the bench. To my amazement these gentlemen don't see any ladies. All appear to be ex-policemen. Probably another closed shop area. How did that happen so quickly?

"Ridiculous workload: Despite recommendations of the Leal commission, full-time justices of the peace sit on night court and take bail on a regular basis, some of them doing as many as two or three nights a week on top of their full day's work. Part-time justices of the peace who are given that commission just to take night court and/or bail all work full-time at the city hall at some other job, before doing these extra duties.

"Indeed, they have a waiting list, or rather the supervisor of JPs has, of JPs not doing this extra work who are willing and anxious to do night court and night bail. Supposedly the money is good and it would appear to compensate, as far as most of the JPs are concerned, for many of the problems they have.

"The problem that bothered me most: There were two long memos from the Attorney General, the Crown attorneys office, signed by Peter Rickaby, directed to all JPs which I came across in room 6, the complaint room, where the public, etc., come in, informations taken and the stuff is processed or not, as the case may be.

"Both memos suggest a course of action that JPs take under certain circumstances, one with relation to complaints against the police and the other, involving assault-bodily harm by members of the public against one another.

[4:15]

"These two memos, together with a recent newspaper article I have read on non-processing of charges against the police in Peel county (see copies of article attached), I found quite frightening in their implications. I did research the matters mentioned in the newspaper article, the results of which I shall discuss with you if you wish. This last problem, which appears to alarm no one but myself, had the final effect on my decision to resign. The 'Alice in Wonderland' world of the provincial courts operates in a way that I maintain is a sort of fantasy-land where I could never operate properly as a fair-minded, common sense individual. Somehow, I feel justice should not only appear to be done, it should be done. Is that possible considering all of the foregoing? Requiescat in pace, late justice of the peace," she ends it up.

Then she did supply some documentation from Peter Rickaby's office. Is the following the policy of your ministry?

"2. In the case of charges being laid, police officers require an independent witness to accompany the complainant in order to lay the charges."

Hon. Mr. McMurtry: No.

Mr. Lawlor: If somebody wants to take over the questioning for a moment, I think I can find something that says it is.

Mr. Vice-Chairman: I wonder, does the minister care to respond.

Hon. Mr. McMurtry: Yes, I am going to ask Mr. Wright to respond. As a matter of interest, this woman did not complain to the ministry. She chose to complain to Mayor Crombie and others. In any event, we asked for a response from Chief Judge Hayes. In view of the length of Mr. Lawlor's recital, I would like Mr. Wright, to whom the memorandum was directed from Chief Judge

Hayes, to respond by reading the rather lengthy memorandum from Chief Judge Hayes into the record.

Mr. Wright: He said, "In respect of Mrs. Parker's memorandum dated January 28, 1976, I have the following comments:

"When it became apparent that Mrs. Parker was to be seriously considered for employment as a Justice of the Peace for Metropolitan Toronto, she, at my request, attended at my office to be interviewed for the purpose of my considering the issue of a certificate pursuant to the provisions of The Justices of the Peace Act. At that time, I reviewed very carefully with Mrs. Parker the extent of her duties and I also indicated to her that, generally speaking, the majority of the justices of the peace with whom she might be working would be persons who had received a continuing form of in-service training as they progressed through various positions in the offices of the provincial court, criminal division. I indicated to her that as a result of this continuing association with the criminal process, we were very fortunate that these people were, from time to time, considered for advancement by way of being appointed first as part-time justices of the peace, for use in night court and subsequently, when the situation required, they were appointed full-time sitting justices of the peace.

"I explained to her that this provided an incentive to those in the service of the criminal division to apply themselves to their daily work in the hope that they might some day become qualified to be appointed as a justice of the peace. I further indicated to Mrs. Parker that undoubtedly, with her background, having worked as secretary to the Chief Justice, she would have the ability to learn within a very reasonable period of time the duties of her proposed new office and that by her having the opportunity to have in-service training, I would be satisfied to certify her pursuant to the provisions of The Justices of the Peace Act with respect to an appointment to that office.

"I indicated to Mrs. Parker that I would not expect that she would be able to perform a full range of duties before the expiry of six months, but that sometime before that period, I would have to be able to form some assessment of her abilities and undoubtedly, she would be able to perform some range of those duties. I explained to her the various range of duties as represented by the various forms of direction from A to D. I indicated to Mrs. Parker that she might be interested in seeing the facilities at the old city hall and that although every effort was being made to

improve the facilities within the financial resources available, there would, of course, be some contrast with the facilities to which she would have been accustomed at Osgoode Hall.

"I took her on a very short tour of the justice of the peace facilities, namely room 6, where members of the public are interviewed and room 54, the room in which the bail justices of the peace conduct their duties during office hours. In addition, I indicated to her some of the day-to-day problems which arose when dealing with members of the public in the existing facilities.

"After returning to my office, I asked Mrs. Parker, after having heard my explanation of what might be her duties, and having observed the facilities, was she interested in proceeding to be considered for an appointment, and she indicated that she was interested in an appointment. I advised her I would forward her certificate to the ministry.

"Upon her being appointed, I was absent on vacation, but in contact with the office by telephone. When her order in council was received, she was asked to attend at the old city hall, whereupon the relevant oaths of office were administered by His Honour Judge Rice. In view of the reasonable certainty of her appointment, she was given all of the educational material which is made available to justices of the peace, prior to her order in council being received. I note that in her memorandum she continually refers to the lack of formal training but I do not see any acknowledgement by Mrs. Parker of the receipt of the justice of the peace educational material. The material provided to Mrs. Parker is exactly the same—"

Mr. Lawlor: That is not correct, but anyhow—

Mr. Wright: "The material provided to Mrs. Parker is exactly the same material as is provided to every newly-appointed justice of the peace in Ontario. And I can assure you that there has been a very enthusiastic response to this material and many justices of the peace have been able to pass any basic test required of them from their study of this material when, in their particular circumstances, it was not possible for them to have in-service training.

"The material contains papers on such subjects as the jurisdiction of the Ontario justices of the peace, taking an information, search warrants, private complaints, separations of counts and amendments of counts, trial of a summary conviction charge under part 24 of the Criminal Code, bail check list, The

Mental Health Act. She was also provided with selected statutes of Ontario, which would most frequently be used by her in carrying out her judicial duties.

"As justice of the peace in Metropolitan Toronto, she would have received whatever amendments that might have been passed in respect of legislation relevant to her duties. There is, as you are aware, an extensive training programme for justices of the peace throughout the province. In Metropolitan Toronto, by reason of our continuing operation of the computer-arranged loading programme for the traffic courts, we are unable to close down the traffic courts for two or three days to allow the justices of the peace to attend a training programme out of town.

"In lieu thereof we have presented at an evening meeting the material most relevant to sitting justices of the peace. During Mrs. Parker's period as a justice of the peace in Metropolitan Toronto, it so happens that one of these meetings was not scheduled, but since that time, the ordinarily scheduled meetings have been held, in addition to the further meetings with respect to the new amendments to the Criminal Code, and in particular how those amendments affect the release of persons on bail. These lectures were conducted by myself in company with Mr. Rickaby or one of the assistant Crown attorneys.

"It is my view, and I believe it is Mr. Rickaby's view, that on balance we have a group of justices of the peace in Metropolitan Toronto who are very reasonably alert to the various legal problems which present themselves and if they do not know the answer, they consult with the Crown attorney or with my office.

"I am not able to comment on Mrs. Parker's meetings with Mr. Gibson other than to say that it became apparent that there was a considerable personality conflict between Mrs. Parker and Mr. Gibson. In this regard, I particularly spoke to Mr. Gibson and indicated that he should not become involved in any conflicts with Mrs. Parker and that he must, at all times, treat her with courtesy and respect.

"In an effort to assist Mrs. Parker with a further view of the justice of the peace operation in Metropolitan Toronto, I assigned her to observe with some justices of the peace in the suburban courts. Experience has shown that on-site, in-service training is one of the most effective methods of learning the functions of a justice of the peace. This opportunity was afforded to Mrs. Parker for an extended period of time.

"The test which Mrs. Parker was asked to take is a test which is given to most justices of the peace outside Metropolitan Toronto, who have not had previous experience in the court system and it is a perfectly straightforward true-or-false test, to give some indication to the judge what may be the level of that particular justice of the peace's basic knowledge.

"I would have reasonably expected that Mrs. Parker should have been able to complete the test on the first occasion that she was asked to complete it. When she refused to take it, she was given a further period of time in which to prepare herself. In addition, when she was asked on the last occasion by my executive assistant to take the test, I considered that I could not allow her to continue in the position without having any knowledge of her possible abilities and it was my view that she had had a reasonable period of time within which to have assimilated sufficient information to be expected to answer the questions.

"Mrs. Parker attended in my office following one of her discussions with Mr. Gibson and she expressed a number of opinions, such as set out in her memorandum. It was my view that her assessment of some of the matters with respect to the knowledge of justices of the peace and their ability to assimilate that knowledge was in error. But I attributed this to her lack of knowledge.

"The physical facilities for the justices of the peace and members of the public interviewed by them are, of course, inadequate. But I believe that every effort is being made by the ministry to obtain funds for the improvement of the facilities and apply these funds on the basis of reasonable priorities. The facilities in which the justices of the peace work are so insecure and open to the public that it is virtually impossible to maintain a library in their area as the books are removed by a person or persons unknown. If they wish a particular law book, it could be made available from the judge's library, and for some time now we have had a part of the series of the Criminal Code cases and Ontario Reports available for their use in the office of the supervising justice of the peace.

"My basic premise is that justices of the peace may seek advice from the Crown attorney with respect to any law in force in the province of Ontario, and they may seek advice from my office with respect to their role as judicial officers, but their decision in any particular matter must be their own decision after having considered the facts and informed themselves as to the law.

"There is a heavy work load on the justices of the peace in Metropolitan Toronto, but on balance, when one considers the thousands of members of the public dealt with by the justices of the peace in this area in a continuing array of difficult matters and under difficult circumstances, it is my view that they are performing their duties in a very reasonable and efficient manner."

That's the end of the report from Chief Judge Hayes.

Mr. Lawlor: Considering the appalling conditions, they are doing very well indeed. Is there any element of discrimination here, that this particular woman was singled out? Mr. Justice Hayes in that memorandum says that those JPs outside Metropolitan Toronto are requested to take this examination. Why is that? Why do the ones inside Metropolitan Toronto not take it and those are expected to?

Mr. Wright: I think, Mr. Lawlor, he indicates in his memorandum that all of the appointed justices of the peace in Metropolitan Toronto have a considerable time of in-service training. They go through the whole process. They work in the court offices and they know what the whole procedure is from beginning to end. Therefore, this test was equated to any test outside of Metropolitan Toronto where the person does not have that in-service training.

Mr. Lawlor: I would dare say a good many outside Toronto have similar types of in-service training in relation to the courts.

Mr. Wright: Very little. Most of the justices of the peace appointments outside of Toronto are on a fee basis, and these people do not have the in-service training in the courts.

Mr. Lawlor: On the true or false questionnaire, surely the woman has made a very good point. I know very few true or false questionnaires in matters to do with justice or in matters to do with anything under the sun that you can answer in that particular fashion.

One of the faults of the educational system is setting up these demented tests, etc. Surely most things require a little reservation here and there, a line written underneath. Sometimes we get those things too. People ask me, and I couldn't possibly reply on the basis of that kind of questionnaire. Is there something simple-minded operating here too?

Mr. Wright: Mr. Lawlor, I think the point is, no matter what the content of the test

was—and I know when I was going through the bar admission course there were a lot of true and false questions—that Mrs. Parker refused on two occasions even to attempt to complete the test. She didn't even begin the test. So the Chief Judge is simply saying that on that basis he had nothing really to assess what type of direction to give her.

[4:30]

Mr. Lawlor: She justifiably felt she was being singled out and charged to do something which no one else in the office had ever dreamed of doing and which she feels most of them would have failed in even if they had attempted. I mean, it's not that simple.

We can only take as a straight conflict what Chief Judge Hayes says on what material is supplied or not supplied. She doesn't deny that a certain amount of material was supplied—the statutes themselves, the Criminal Code and some directions, etc. She does say that the amendments were not forthcoming—she mentions two that she saw—when the Chief Judge says that they get them in a constant flow.

I'm not going to dispute this. I don't know how we can settle that issue. I mean, there is straight traversing of statements in both instances. My job, as I see it, is not to defend establishments and groups which have an interest to defend, but to check the system where inequities or deficiencies emerge and to have them rectified if that's humanly possible. So I have to press it. I take it, as a result of her disturbance, that whether or not they were supplied with adequate material and with amendments and things of that kind, they are now. I have no doubt about that. Is that so?

Mr. Wright: Well, we say they were then.

Mr. Lawlor: You say they were then.

Mr. Wright: And have continued to be since that time.

Mr. Lawlor: All right. And are they recruited from a closed shop system?

Hon. Mr. McMurtry: Let me respond to that because I've been very interested in this during the past 13 months that I've had my present responsibilities. We try to see, certainly in Metropolitan Toronto in particular and outside where possible — but as Mr. Wright states, many of these people are appointed just on sort of a fee-for-service basis—that the people who are appointed in Metropolitan Toronto come up through the system. You may call that a closed shop. I think it's more desirable to appoint people

who have had, not only working knowledge of the courts for some time, but who have earned the promotion rather than making political appointments, as it was described, from people outside the system just because they might want that sort of job. Because, you know, the pay isn't great, but it's not all that bad either.

Mr. Lawlor: No, it isn't.

Hon. Mr. McMurtry: And there are a lot of pressures. I mean, for example, a number of people approach me, directly or indirectly, and say "It would be nice to get a job as a JP." We just make it clear that we just don't make those appointments unless they have earned the appointment and the people who have earned the appointment have invariably come from within the ranks. I think obviously that the administration of justice and the public are best served by that sort of arrangement.

Now if you call that a closed-shop arrangement I say it is a non-partisan approach to making appointments that are important.

Mr. Lawlor: I do take exception to it. This business, you throw in the nice word "earned" constantly there. Many of these people have no more qualifications, simply because they've sat around and heard cases tried, etc., than some member of the public who has an interest there.

I would suggest to you that you give some consideration to setting up a proper examination system and all comers, if there are posts to be supplied, then it's done on a tender system, if you will. It's done on a basis of competence and not because you're within the fold, and not because you have a certain lengthy spell being a clerk of some kind over a period of time and think you're "next on the list." That's not the way to run an office which has become, because of the pressure on the courts, a very important office.

On the fee basis, I would like to see some figures. I understand some justices of the peace in this province do very well indeed on the fee basis. There are accommodations that they give largely to the police in laying charges, without perusing the documentation too carefully, they sign the warrants because they are paid so much for every inch of foolscap. I use foolscap with a vengeance. You know that system is terribly questionable. Could you give us figures as to what the largest sum made by a JP in the province is on the fee system?

Mr. Wright: We could get you the exact figure, but as I recall it is around \$30,000 to \$35,000.

Mr. Lawlor: Right. My figure was \$36,000. That's pretty good. Is that a gross figure?

Mr. Wright: That's the gross figure and of course out of that he is responsible for his own accommodation plus whatever secretarial staff, equipment, etc., he needs. So you have his overhead included in that \$35,000.

Mr. Lawlor: Yes, and he works like certain politicians out of his back office or that of his secretary.

Mr. Singer: This fellow in St. Catharines said nobody ever gave him a filing cabinet and that's why he didn't have any files.

Mr. Lawlor: This is part of the complaint here—I am coming to that in a minute—as to room 6.

But, Mr. Attorney, if that is the case, then you are not being well served. If you are so hung up on saving money then that particular situation of large sums of money going out on a fee basis to men who have, by and large, come in through political auspices at one time or another, is a blot on your escutcheon which you are going to have to rectify. Wouldn't it be better to give them \$20,000 a year, put them on permanent staff and save yourself \$16,000—and give them a filing cabinet?

Mr. Singer: Yes.

Mr. Lawlor: I think you have to consider that.

Mrs. Campbell: Loan it to them.

Mr. Lawlor: Rent it.

Mr. Singer: Give them a preferred rate.

Mr. Lawlor: As a result of Mrs. Parker's complaints, have they desks of their own now? Is there a place they can hang up their hat? Have they filing cabinets? What rectifications have been made?

Mr. Wright: Mr. Lawlor, as you know, old city hall is not the most adaptable place in the world to hold courts. We have been involved in a three-stage renovation programme and the third stage is now in the planning which will include room 6, the justices of the peace area.

Mr. Lawlor: That's a kind of window dressing—three stages. You don't tell me what those stages are and is room 6 within the first stage or is it—

Mr. Wright: The third stage.

Mr. Lawlor: It's what?

Mr. Wright: In the third stage, which is just now in the planning.

Mr. Lawlor: But nothing as we sit here this moment has been changed there and that's coming. It is in the books, despite Parker's complaint. I find that very strange.

Mr. Wright: Of course, you have to look at the whole accommodation budget that we have for the ministry and we must say there are many, many places in the province where there are just desperately inadequate facilities. We have expended—I guess the last stage was something over \$500,000 just on some of the administrative areas in the old city hall. You get caught up in trying to place your priorities and the third stage is in the planning process and when the funds are available, then we will be able to do it.

Mr. Lawlor: Well, have you been able to go this far that they don't get their books stolen by people walking along the hallway?

Mrs. Campbell: They don't have the books so they can't be stolen.

Mr. Lawlor: We have solemn assurances here that they have the books, except that they say that they haven't got the books because various accused are anxious to find out what the law is and take them off the shelves.

Mr. Wright: I think there is a full set of books now in the supervising justice of the peace's office, but not in everybody's cubicle in room 6 because they do have a habit of walking away.

Mr. Lawlor: Is this part of your stage three that they do have some kind of library accommodation where they can put their fingers on the necessary text when they are about to go into court?

Mr. Wright: I am not sure just what arrangement has been made for a special library for the justices of the peace.

Mr. Lawlor: All right. It's appalling that should be the situation at any level of court or any aspect of justice and to plead within these walls that you can't get a room with a proper shelf or even with a bookcase which happens to have a glass that you can open.

Holy cow! To what extent do the diminishments occur here? You should have moved in on the situation a long time ago. You anticipated obviously you would be asked these questions during estimates and you are still wringing your hands and doing nothing about it, particularly as things are today. It's very questionable and you had better pull up your socks.

Mr. Callaghan: Well, just a minute, I think that something should be said. We don't set the priorities nor do we fix our budget. It is fixed by government and the people in the ministry have worked many long hours and years trying to do things to improve conditions. If you want to take that kind of a slam, you should be taking it at the minister, not the civil servant. Why don't you take it at me?

Mr. Lawlor: Oh, I am taking it with you.

Mr. Callaghan: Well, the way it was worded you were telling Mr. Wright—

Mr. Lawlor: You are sitting there listening. That's what we got you there for. All right, it is you that is at fault. Of course it is. Pull up your socks.

Mr. Callaghan: Well, we have. We have done the best we can.

Mr. Lawlor: If you have, you haven't got the bloody proper filing cases in and you haven't protected the texts that they have to use in a courtroom. You haven't done it. That's all there is to it. You had better do it very quickly.

On September 3, 1975, Peter Rickaby, Crown attorney, sent to all justices of the peace in the municipality of Metropolitan Toronto the following memorandum:

"It was recently drawn to my attention by the board of commissioners of police that the expense of providing counsel for police officers who are charged with the criminal offence of petty trespass was reaching alarming proportions. The commission is obliged to provide counsel in every case.

"Some of the charges have been of apparently frivolous nature. That is, petty trespass charges, arising out of Rochdale incidents or cases where a complainant who has been charged himself by the police has made a countercharge, usually of assault, for purely vexatious purposes. Some of them are clearly situations where there is a total lack of evidence to support the complainant's claim. Indeed such evidence is contradicted by civilian eye-witnesses. In clear-cut cases of this type, this office will be considering charging the complainant with public mischief."

"Of course, the ultimate discretion as to whether or not to issue a process lies with you, but I would ask you to consult with this office in dubious situations, either with myself, Mr. Leggett, Mr. McVannell, or any other senior members.

"Some of the factors that you may consider if you are doubtful is whether the com-

plainant can produce any eye-witnesses to the alleged assault, and whether he has been to the police complaint bureau before he has seen you, and particularly the length of time that has elapsed between the time that he was charged for the event in which he was charged and the time of laying the complaint. In cases which appear doubtful, you may well caution him that he may face a public mischief charge, if his allegation of assault proves to be totally unfounded. In so saying I don't mean to intrude on your discretion or remove the right of the citizen to lay a charge in genuine situations."

I find that questionable.

Hon. Mr. McMurtry: Well, Mr. Rickaby has been advised that memorandums should not go from him to JPs, but any suggestions he has should go to the Chief Judge or through the ministry to the Chief Judge. But, he should not be issuing instructions to the JPs and I trust that that issue has been resolved, Mr. Lawlor.

Mr. Lawlor: Yes, glad to hear it. Okay, I won't press it any further. What has been solved and remedied has unction and balm.

Mr. Roy: Just on that point regarding that type of instruction. Has it been sent across the province? Because I have knowledge that it is not unusual or uncommon for Crown attorneys, or the Crown attorney's office in various localities in this province, to issue that type of instruction—possibly not written but to give that type of instruction to JPs.

Hon. Mr. McMurtry: It's my understanding, Mr. Roy, that this has been clarified. Mr. Greenwood isn't here today, but I'll make sure that there are no Crown attorneys in the province who have any confusion in their minds about this.

[4:45]

Mr. Lawlor: I think it is agreed generally that laying charges of common assault is felt by JPs and by Crown attorneys and by judges as cluttering the courts.

Hon. Mr. McMurtry: And by accused.

Mr. Lawlor: But not by the person who is assaulted. There's a directive or memorandum of January 21, 1975, to all justices of the peace in the judicial district of York from Peter Rickaby. It states:

"Charges of assault occasioning bodily harm. As you are aware, section 245, subsection 2, of the Criminal Code was amended making the above offence indictable, and this

allows a person so accused the option of a trial by county court judge and jury or judge alone as well as a provincial court judge.

"As a result, many cases of assault occasioning bodily harm have been committed for trial before a judge and jury, where in most cases the evidence would only warrant a conviction on the charge of common assault.

"All such cases of course have to be passed by a grand jury"—well, it doesn't any more—"and a trial date arranged, the cost of which is out of all proportion to the seriousness of the assault. Such elections often appear to be for the benefit of counsel rather than the benefit of the accused or the victim.

"In future I would ask you to reserve this charge for severe cases of assault only. That is, serious injuries such as a broken limb, disfigurement or flesh tears requiring many stitches to close.

"Where the injury is of a relatively minor nature—that is, bruises, cuts requiring only a few stitches to close, loss of teeth, black eyes, sprains, broken fingers, etc.—you should try to convince the victim or complainant that it's a charge of common assault where the maximum imprisonment of six months would suffice under the circumstances, indicating to him that where an assault causing bodily harm charge is laid it might well result in considerable delay of the trial process and the expectation of more attendance as a witness, with consequent time off from work and general inconvenience, than would be needed if the charge were common assault, which then could be kept to the provincial court level. If you are in any doubt do not hesitate to refer to this office."

You can see the point in lawyers electing upstairs and again prolonging the issue and costing, mostly Legal Aid, a great deal more money. On the other hand, his definition of what he considers common assault, is, I suggest, somewhat questionable too. "Where the injury is of a relatively minor nature . . . a few stitches, loss of teeth, broken fingers." What do you think about that?

Hon. Mr. McMurtry: I only reiterate what I said before, Mr. Lawlor, about our instructions that there should be no such communication coming from any Crown attorneys. I don't think there's any doubt but that the number of people who are complainants, the victims of these alleged offences, have complained to the ministry over the years—in recent years particularly, because in the assault causing bodily harm section, when you and I first started practising law, there was no such election up and that's the way it is

now again — but victims who had to appear in a preliminary hearing before a grand jury and then for the third time during a trial obviously felt victimized by the system as well as by the accused. In any event, that problem, I suppose, has been remedied by the federal government in its wisdom in removing recently the election in assault causing bodily harm cases, unless the Crown, of course, wishes to proceed by indictment.

Mr. Lawlor: Right, so have you instructed Peter to discontinue these sage little documents he's been sending out?

Hon. Mr. McMurtry: Yes, I've already indicated what our instructions are with respect to dealing directly with the justices of the peace.

Mr. Lawlor: I'd be interested, by the way, if the Crown attorney's office anywhere in the province, particularly in York, is sending out little directives here and there, that the critics for the government be supplied with them so we can see just how the internal operations are working. I don't think they are private documents. I think what's happening in that way is a matter that we should be appraised of. Would you agree?

Hon. Mr. McMurtry: I think, generally speaking, I would have no hesitation. I can't say that there won't occasionally be instructions that may be of a confidential nature. I can't think of any at the moment.

Mr. Lawlor: That's certainly not, is it?

Hon. Mr. McMurtry: No. I said I can't think of any at the moment. I think it would be a good practice for the Attorney General to keep at least the justice critics in the opposition advised as to the nature of instructions that are going out.

Mr. Lawlor: Excellent. I'm finished.

Mr. Roy: While we're discussing the question of justices of the peace, I'd like to know how the fee basis system works and how they're paid on a fee basis. Are they paid per information sworn, warrants sworn and this type of thing?

Hon. Mr. McMurtry: I believe so. Could you assist Mr. Roy with respect to the fee schedule, Mr. Wright?

Mr. Wright: We don't have the regulation here which sets out the fees which they are paid, but we can get you a copy of that if you want.

Mr. Roy: You must have some idea. What are they paid to swear out information, about \$3 or \$5 or what?

Mr. Wright: I think swearing an affidavit is 50 cents. Swearing an information is \$1.

Mr. Roy: And a summons or something?

Mr. Wright: I think it's 50 cents as well. We don't have a copy of the regulations here but we'll get a copy of the regulations to you.

Mr. Roy: This is a difficult problem because I appreciate in some areas of the province it may well be difficult to have someone on a full-time basis. There might not be sufficient work to justify appointing a justice of the peace on salary if the work isn't there. The whole principle of justice is being offended here by that fee basis principle. Is he paid, for instance, if an officer comes along to swear an information and he says: "No, I don't think you have sufficient evidence. I'm not going to swear it"? Is he paid for that?

Hon. Mr. McMurtry: No.

Mr. Roy: That's exactly my point. There's an incentive there within the system that he co-operate with the authorities and sign anything that's put before him. That's very offensive, I think you will agree, to the whole principle of justice. In other words, the incentive is that he sign anything that's in front of him because if he doesn't he's not going to get paid.

Hon. Mr. McMurtry: The point that you make is a valid one, Mr. Roy. I'd like to think that the JPs that are appointed would not invoke the criminal process in return for \$1. But I appreciate the wisdom of the point that you're making.

Mr. Roy: My concern is that most of these JPs—leaving aside the fellows who are sitting and people like that who come up through the ranks—who are being paid on the basis on the fee basis, basically are people who, if there's a possibility of a political appointment, will be in that realm usually.

I don't want to be offensive to you, but we're not schoolboys here and we know some of these things have happened. Very often it's a fellow in town who doesn't really have that much background and who doesn't have that much experience. I suggest if anybody is going to be in a position to take advantage or to co-operate with the police, and be affected by this incentive to swear out information, it's exactly the fellows who are being paid on the

fee basis. That's why I raise it and that's why this system concerns me.

Hon. Mr. McMurtry: If I could respond. We recognize the fact of this possibility of having salaried JPs in many areas of the province because once you get out of southern Ontario, distances are far and the population is spread out, but the ministry does watch this closely. I think there is no indication of any abuse of this system and certainly the lawyers who are usually involved when charges are laid are in the best position to know whether there has been an abuse of it. I would think that the legal profession generally is quite vigilant and if JPs were acting improperly as a result of the incentives that you talk about, the legal profession of the province would soon become aware of that. I would hope that they would. I realize that is not a total answer to the problem that you pose but as I say, we are trying to appoint more full time JPs. Certainly that is desirable.

Mr. Roy: How many do you have on this fee basis by the way? How many would you have approximately?

Hon. Mr. McMurtry: It is a very large number.

Mr. Wright: About 650 who have directions and 58 of those are on a full-time basis. We have about 600 then on a fee basis.

Mr. Roy: Six hundred on a fee basis. Just in response, Mr. Attorney General. The legal profession in those circumstances sometimes is not a good guardian of this and I will tell you why. Again the lawyers don't mind because if there is an information sworn and the evidence is dubious, they benefit from that. They defend the guy; they get paid and he is acquitted. That is fine. The whole system rolls. I don't want to be all that cynical about the legal profession but there is a built-in system in your whole system of justice.

I appreciate that there is no easy answer, but I find it offensive to some degree that they should be paid only when an information is sworn. I just wonder whether there aren't other opportunities or another system where, if they take the time to question an officer about the evidence or about signing a particular piece of paper, and he refuses to do so, they exercise their discretion which I think they have and they should be paid.

Hon. Mr. McMurtry: First of all, in response—again it is not by any means a total answer—there is the responsibility of the lawyers, because lawyers are officers of the court as we remind ourselves and do have a responsibility in this area. I am not suggesting

that this is total protection for the citizen, but I don't think there is any doubt that lawyers have a very strong responsibility to see that the process has not been abused. Interestingly enough, criticisms in relation to this system that we receive invariably are people complaining that in a process they have not issued an information. That is where virtually all the complaints come from.

Mr. Roy: Yes, but that type of complaint comes from the individual, not from the police and that is the—

Hon. Mr. McMurtry: From the police too.

Mr. Roy: But the point is this: With no tenure and being paid on the basis of signing the piece of paper that is in front of him, you get the whole system where the police work with the JP and after a while he becomes a sort of rubber stamp. The police bring stuff in and he just stamps it. If he starts being too cantankerous and starts refusing, not only does he not get paid but he is liable to get flak from the Crown attorney or from the local police. That is what I find offensive about the system.

Isn't there some way they could be paid if they refuse to sign an information for instance? I take it that the reason they don't get paid is because they don't have any record. Is that it?

[5:00]

Mr. Wright: First of all, Mr. Roy, the justice of the peace cannot refuse to take an information. He can refuse to issue process on them but he has to take the information. I appreciate the point you are getting at, but perhaps the point is really not the JP but it is prior to getting to the JP.

If the charge should not be laid in the first place, then it is police responsibility and not the JP's responsibility, because when the police bring that information to him, he has to swear it. Then he decides whether or not he is going to issue a process. And that is where we have been getting the complaints—most of the complaints come because the JP won't issue a process.

Hon. Mr. McMurtry: I'd like to interject here. I think if the informant, the policeman, wants to swear out the information, the JP should be paid for his services, whether the process is issued or whether it isn't issued.

I think that again is a valid suggestion and I am quite prepared to look into that seriously and see if there isn't some way that something can be worked out along those lines.

Mr. Roy: I am very much afraid—and I don't want to be overly critical because the

system in some ways reflects the necessity of the whole process, but—

Hon. Mr. McMurtry: No, I think your point is made. As I say, I am instructing my people to see why that can't be done.

Mr. Roy: —you see, the JP in that situation, I feel, then becomes one who has no discretion. If an individual comes to lay an information against the local police in a small town you can see the position he is in—he works with the police, he works with the Crown attorney and everybody else. I say to you, for all intents and purposes that individual is under an awful lot of local pressure to refuse to go along with an information against police officers or local dignitaries and stuff of this nature. I am saying that his discretion at that point is really being severely hampered because of the framework in which he works.

Hon. Mr. McMurtry: Which unfortunately is there whether he is paid as a full-time JP or not.

Mr. Roy: Possibly not. I just want to come to my second point. It seems to me that when a JP is cranking out something like \$35,000 a year, he is seeing an awful lot of paper come across his desk. When a JP starts reaching that level of activity, consideration should be given to putting him on a salary lower than that. I am sure some JPs in some areas would work for salaries of \$5,000, \$10,000 or \$15,000.

Once you start reaching \$35,000 you have got some margin there, where it might be cheaper for you to have someone on salary than be paying him per process—you know—within the system that I consider to be offensive.

Hon. Mr. McMurtry: One of the difficulties is that if the person becomes full-time he is available only at an eight-hour stretch. So you might require two, or even three, JPs to provide the service that one person is providing on a 24-hour basis. Because the individual who is working part-time, particularly somebody whose gross fees are in that area, is available on a 24-hour basis.

Mr. Roy: Yes, but even though he is available on a 24-hour basis, he is not doing it full-time. He is running his drug store, he is doing something else. He doesn't have to devote his entire time to the issuance of processes, does he?

Hon. Mr. McMurtry: Theoretically not full-time. I would think that some of them must be working pretty close to that if they are grossing fees in that—

Mr. Roy: My point is simply this—you come to an individual who is running a little business and you say to him, "We are going to pay you \$10,000 a year to be the local JP here as long as you are available 24 hours a day." I am sure that he would co-operate. It is not as if there is someone at his door every night at 2 a.m.

Mrs. Campbell: In a resort area? That is when they are there at the doors, at 2 o'clock.

Mr. Roy: Well, if he is getting that—

Mr. Drea: There are fees for service in your own profession. You understand that.

Mr. Roy: I appreciate that, but the incentive is not on issuing the process. I don't think you understand my point. He is being paid only when—

Mr. Vice-Chairman: Mr. Roy, I wonder if you could address the Chair? It would help us a whole lot if the arguments went to the minister through members of the committee instead of back and forth.

Mr. Roy: I've been trying, Mr. Chairman, but I was rudely interrupted there.

Mr. Vice-Chairman: One can never be interrupted if he doesn't want to be.

Mr. Roy: I think I have made my point on this one here. I have a second one, to follow through with what Mr. Lawlor had to say about the whole question of JPs.

I must tell you first of all, I am surprised, as I've been receiving a lot of complaints from JPs—at least the ones around the Ottawa areas—that they were not adequately paid, and that very often they were sitting all day in court, with junior police officers who were making a lot more money than they were while they were adjudicating all day. I see that some of these increases must have been during the last while—the \$16,000 to \$19,000 for a sitting JP? Is that something that has come across recently?

Hon. Mr. McMurtry: That was in January, 1976.

Mr. Wright: And then there would be a further increase, as of the cyclical review of October 1, 1976, on top of that.

Mr. Roy: I want to make a few comments about the whole system of individuals coming up through the ranks. I appreciate the pressures under which these people work, the vast number of cases that come across or that are being processed within our administration of justice. There have been great in-

creases under statutes, provincial or otherwise, and I suppose it's inevitable. Police forces have been increasing at a fantastic rate. The population has been increasing and the whole system follows through.

I think it's wise as well to appoint people who have demonstrated a certain ability through the ranks to keep that incentive. But I would caution that I really think to some measure there is a closed-shop system working at that level. We have JPs working with judges, working with the police and working with the Crown attorneys. It's important that the JP be seen at least to be one that is following along with the system. I am always concerned that he gets a particular frame of mind and proceeds in that fashion. Is there no way to find other people you could appoint to keep a balance on the JP court?

Ironically, more people probably are appearing before JPs in our system than before any other individuals. I would think possibly now that JPs are sitting more and more often that the run-in of individuals with the law evolves from a JP more so than from judges in the province. The individual's observation of how the process works and how he feels he has been treated within the process depends a lot on the attitude of the JP. It is extremely important that it appear he is getting a fair break within this whole process. There is the importance then of the role played by a JP, especially a sitting JP.

Fortunately, my observations of the ones in Ottawa are that they have been pretty good. These are fellows who have come up through the ranks. I must say, considering their frequent lack of legal background and such, by and large they have a pretty good grasp of the law and do a fair job. But I have seen occasions when obviously they were wrong. When you put a robe on someone, and put him sitting higher than somebody else and he is sitting in a courtroom, it does strange things to people.

We used to talk about the old system of "judge-itis." We had some friends who were appointed judges and it seems you can't talk to them, and you can't recognize them on the bench any more. I am not making any reference to my colleague to the right here at all because I haven't had the pleasure of appearing in front of her.

We've seen it and the whole profession has talked about certain individuals who, following an appointment, get that sickness. I have seen it happen that it sort of goes to their head a little bit and they get rougher with witnesses and certain accused and so on.

Is there not some possibility that other individuals might be interested in that job as sitting JP, for instance, retired lawyers or certain other professional people who are retired? I could see it would be tough to make them all lawyers because obviously one of the difficulties we used to have in provincial courts at one time was to get people who would give up their practice to become judges. The only way you have been able to solve that problem is to give remuneration which I now consider to be proper. But they are at the level of what—\$38,000—the provincial judges?

Mr. Wright: At \$40,000.

Mr. Roy: At \$40,000. Obviously you couldn't be thinking—

Mr. Singer: Not of retired policemen.

Mr. Roy: I would like it if that was given some consideration because there is a possibility that there is a closed shop and that it is to everybody's benefit to co-operate and you get the process working that way.

I'm concerned a bit, for instance, when you get retired police officers as JPs and people of that nature. You just wonder what sort of balance or what sort of justice emanates from these people.

Certainly the ministry must have thought about these things because it is so important. The volume of citizens who appear before those courts is mind-boggling and that's what the public is left with—that type of impression. I would appreciate it if the Attorney General might give some consideration to some of these suggestions.

Mrs. Campbell: Are you finished with JPs? Can I ask one quick question?

Mr. Vice-Chairman: Yes.

Mrs. Campbell: Have you changed the policy in your appointments of JPs? At one time there were some that were appointed more or less at large. There were some appointed in a very narrow jurisdiction. What is the situation today? And what has happened to those—if you have changed it—who were appointed in the narrow jurisdictional field?

Hon. Mr. McMurtry: There are the three categories, as I understand it: The sitting JPs, and perhaps Mr. Wright can explain it better than I can—

Mr. Wright: Mrs. Campbell, are you talking about whether they are appointed for a particular county or appointed for the prov-

ince? I believe at the moment we are appointing JPs to the province.

Mrs. Campbell: What's happened to those who were appointed to the county at that time—the district I presume now?

Mr. Wright: We are extending it.

Mrs. Campbell: That's not all of them?

Mr. Wright: When a particular problem arises—for example, if you get a JP who lives close to a border of a county and it's much more convenient for the police to come there rather than going a distance in their own county, those are the situations which have been brought to our attention and then we have extended those jurisdictions. But we haven't done it across the board. In other words, we haven't gone back to everybody's appointment and renewed their appointment for the province.

Mrs. Campbell: Just one second question. If you thought it was important to have two in one small town to start with, one with the provincial jurisdiction and one with local jurisdiction, if you thought it was important at all, why have the second one at all?

Mr. Wright: As I say, where it creates a problem, and this is where it has been brought to our attention, then we have extended the jurisdiction and we deal with it on a problem basis.

Mrs. Campbell: That didn't answer the question but thank you. I guess there isn't an answer.

Mr. Roy: When we were talking about the pay increases to JPs I thought I should bring to the Attorney General's attention that very often when I have the opportunity to go to the county court I talk to various officials in the courts. They explain to me how things are going. The other day I was talking to the court constables in the courthouse in Ottawa and they were telling me that they had a pay increase effective January 1, 1976, of three cents an hour. They've gone from \$3.71 an hour, I think, to \$3.74 an hour.

[5:15]

Now, these individuals, as you know, are called casual employees, and are called in when needed. In light of the increases we've seen in other areas of justice, I thought this was a bit cynical, this type of increase. These individuals, of course, are working because very often they have to. Considering the cost of living and everything else, I thought that less than one per cent an hour is not what

you might call overly generous. Am I right there?

Mr. McLoughlin: Well, you're correct in one sense, Mr. Roy, but I think it is slightly inaccurate in another. What happened was that traditionally we had casual staff on a calendar year basis. It was creating some amount of havoc with us because we have to budget on a fiscal year basis. So, at the end of the 1975-76 year, we issued contracts for a three-month period.

At that point in time, the government was negotiating generally the new contract figures, so at that time all we did was to reissue the contracts virtually in the same amounts or at the same rates as they were issued before. In order to somewhat simplify the accounting and make the amounts divisible, we tended to round a few figures up and down. This is where the pennies come into it. But, just recently the government announced its salary awards and the increases for casual staff are going through effective as of January 1, 1976.

Mr. Roy: How much?

Mr. McLoughlin: I have forgotten. The rates vary but they are the same amounts that were given to the regular employees.

Mr. Roy: What percentage though are we talking about?

Mr. McLoughlin: Well, it varies. It is, I believe, around 10 per cent or in that range.

Mr. Roy: Okay, because one of the old fellows around the courthouse was explaining to me his raise. I just thought it a bit much.

Mr. McLoughlin: This must have happened some time ago, I would think.

Hon. Mr. McMurtry: I gather, then, it wasn't supposed to be regarded as a raise. It was just a question of simplifying the book-keeping.

Mr. Roy: He probably wasn't told that, or these fellows weren't told that, and he thought he was getting a raise. Not that it's not appreciated by these fellows, I'm sure.

Mr. McLoughlin: No doubt.

Mr. Roy: The other point I want to bring to the attention of the Attorney General has to do with some of the offices in the Supreme Court of Ontario at Ottawa. You know, I've been looking at the workload and the case-load increasing there. The setup that the Master in Ottawa has is really shabby. I don't know if he is not pulling the right

strings or he doesn't get through to the people down here, but he's got a setup in Ottawa which leaves a lot to be desired.

As you know, Mr. Minister, with the large increases in divorces the Master is called upon more and more often to make interim awards all the time in his offices. Yet, the Master in Ottawa has an office which is about 10 by 12 feet and he is sitting there with a bunch of lawyers and they are sitting there with their files, and he has great difficulty in getting any sort of respect or getting any sort of order within the process there. I just mention divorces but he is an individual who adjudicates on all sorts of other matters and his office setup there really leaves a lot to be desired.

I would appreciate it if that was looked into because I think it reaches a point where if we believe in the administration of justice and proper adjudication, if the whole setup leaves a lot to be desired then sometimes the processes that follow leave something to be desired as well.

So I bring it to your attention because I frankly think the officials here in Toronto—I've been down to taxing officers and people like that, for example—have at least adequate setups. At least they did when they were across the street. I don't know if they are still across the street from the court of appeal. Is it on King Street?

Hon. Mr. McMurtry: Queen Street.

Mr. Roy: On Queen, yes, right across from Osgoode Hall. When I look at the setup in Ottawa—I know there are people moving out of that courthouse in Ottawa, but the people who seem to be grabbing all the space are the Crown attorneys.

I bring this to your attention because I think it's unfair. I think it's not fair not only to the Master to have to work in that type of atmosphere and under that type of pressure, but to all the people who are appearing in those offices.

The other point is that apparently the Master has no powers of citing people for contempt or anything of this nature, under our present rules?

Hon. Mr. McMurtry: That's right.

Mr. Roy: I have observed some situations where an individual who is adjudicating gets the arguments that take place and some of the lack of respect and lack of decorum in that place, combined with the improper facilities, sometimes make it a bit of a circus. Fellows walk in there, they start arguing with each other, the Master makes a decision and

the guy says, "You are crazy. I think I am going to appeal you," and that sort of thing.

Hon. Mr. McMurtry: Stopping there for a moment, surely the contempt of court right or power or jurisdiction to cite for contempt of court, of course, are often necessary where there is a possibility of a contempt, say in the face of the court, such as a provincial court judge. But surely a Master is not dealing with members of the public—occasionally they will give evidence—but it's lawyers, as you say, arguing. I would think that if a lawyer were to say to the Master something to the effect that you've just related, he has a very easy route to go to the Law Society, because I think that amounts to professional misconduct. I am rather disturbed to think that any of your colleagues of the Ottawa bar would behave in such a manner.

Mr. Roy: I would think that if some of my colleagues from Toronto were appearing there, considering some of the things that I've seen in the courts here, I don't think I can limit it to the Ottawa bar. It's just that the whole place gets carried away. You are all packed into a small room and everybody is arguing left and right, and that type of thing goes on. I just bring it to your attention, but I appreciate that the public is not in there most of the time, although there are members of the public who represent themselves.

Hon. Mr. McMurtry: Yes, but very occasionally, but in any event, I gather that the local Master in Ottawa has not made any complaint to the ministry, so I am told—

Mr. Roy: He tells me has has.

Hon. Mr. McMurtry: —about his accommodation. That's what I am advised by Mr. Wright, and secondly I would like you, when you are speaking to him, to suggest to him that he communicate with us. Also, if lawyers are conducting themselves in an unprofessional manner, then I don't think he should have to accept that.

Mr. Singer: Why doesn't he get up and walk out?

Hon. Mr. McMurtry: Well, that's one alternative.

Mr. Roy: If he gets up and walks out, the rest of the guys who have been sitting there for an hour waiting for some decision, are penalized by it.

Mrs. Campbell: Two or three hours.

Mr. Roy: Yes. Mr. Elliott has told me that he has complained often to Toronto about his accommodation, has he not?

Mr. Wright: Mr. Elliott has complained about his salary to me, but he has never complained about his space.

Mr. Roy: What is his salary, by the way?

Mr. Wright: The salary of the Master is about \$28,000 to \$30,000.

Mr. Roy: Is that what he gets, about \$28,000?

Mr. Wright: Yes.

Mrs. Campbell: I wouldn't want to go through that exercise.

Mr. Roy: With that type of accommodation and that kind of salary, I would think he is justified in complaining somewhat. I would think you are very fortunate to have a lawyer who has been a Master there for 15 years or so, working for \$28,000, in view of the increases that the Crown attorneys have had, and everybody else. You are lucky. Whether he has complained or not, I really think, as one who goes down there and looks at the place, that it's inadequate. I really do.

The final small matter I want to bring to the Attorney General's attention is a complaint by people in the bar down in the Stormont, Dundas and Glengarry area. As you know, there is a provincial court that sits in Alexandria, and what happens is that they don't have a judge down there. They get Judge Pat White, who goes down there I think for two sessions a month or something. So what happens is that any members of the bar who are representing people usually come from Alexandria or Cornwall or Ottawa to appear in that court. The docket is getting so heavy that they are going down for an adjournment which takes half a day; and if any case is going to proceed they are lucky if it is heard at all.

As you know, I think there is a probability there will be a further judge appointed in Ottawa, and Ottawa is the central point to service all those areas around there. Not only is there a problem in the backlog in the Ottawa courts, but there appears to be some lack of service down in some of the county towns around the Ottawa area. I would hope that some consideration be given to either a judge who might be prepared to service all those small areas, or you appoint additional judges in Ottawa.

Hon. Mr. McMurtry: The additional judge in Ottawa, I understand, Mr. Roy, is going to be about half the time in Ottawa and about half the time out in that area to which you just referred. That is the intention from

what I have gleaned from my discussions with the chief judge.

Mr. Roy: I see. I think he's needed because there is certainly some problem down in the Alexandria area.

Hon. Mr. McMurtry: I think that was the matter I took up with the chief judge and Mr. Wright, because I think our colleague, Mr. Osie Villeneuve, spoke to me about that matter a few months ago. Is that not right?

Mr. Wright: Yes, Chief Judge Hayes has been trying to do his best to keep a full complement of judges in the area so the court in Alexandria could be served properly. Unfortunately, a couple of judges, including Judge McLean in Pembroke, took serious heart attacks. He is doing his best to try and keep all of the courts staffed with judges.

Mr. Roy: Yes, because the Ottawa judges go down to Arnprior, Smiths Falls, Pembroke and all those areas. I thought I should bring it to your attention because not only is the local bar complaining, but the chief of police and everybody say that it's just not adequate. That's all my comments, Mr. Chairman. Thank you.

Mr. Wright: Mr. Roy, if I might, the exact local Master salary as of October 1, 1975, was \$27,360. That would be increased now, as of October 1, 1976.

Mr. Roy: Do they get paid more than that in Toronto, such as McBride and these people? What do they get?

Mr. Wright: This is a local Master situation. His main function is as the registrar of the Supreme Court whereas the Masters in Toronto do nothing but Masters' work. But, Mr. Elliott's main function is as the local registrar of the Supreme Court.

Mr. Roy: I tell you, with the increase in caseload that he's getting, I would think from what I can see, that he's doing an awful lot of adjudicating, apart from being what they call the registrar of the Supreme Court. Just as a matter of interest, what do they get here in Toronto? What does a Master in Toronto get?

Mr. Wright: The same as a provincial court judge.

[5:30]

Mr. Roy: The same as a provincial court judge. That's \$40,000. Okay, thank you.

Mr. Vice-Chairman: The next speaker on my list is Mr. Singer.

Mr. Singer: Mr. Chairman, I'm sorry I missed Mr. Lawlor's commentary on justices of the peace. I have Mrs. Parker's memorandum. I've known her for a number of years. She is a lady of substantial ability and great courage. The fact that she took on the job, made her point and resigned too, because she didn't want to live with the system, I think commends her highly.

As you perhaps know, she was the secretary to the chief justice of the trial court for a number of years. I got to know her in that capacity. She was very efficient in that job as well.

I think what she set out in the memorandum, and I'm not going to go through it—

Hon. Mr. McMurtry: It has been gone through in some detail, Mr. Singer.

Mr. Singer: It has? Yes, well I'm not going to go through it again. I think it deserves very careful attention. It deserves very careful attention not only because it's here and it's because of someone of some intelligence and ability who has looked at the system, but because of what's gone before.

There was that unusual event down in the Niagara region where all of the people who were in a particular pub were forced to submit to a skin search to see if they were hiding narcotics somewhere. I went down to the hearings for a couple of days, and it emerged during the course of the hearings that they entered on a warrant issued by the local justice of the peace. He was a very interesting gentleman. He was a retired police officer. Counsel, Mr. Kellock from Brantford, who I'm sure the Attorney General knows, a very able counsel to the judge during the inquiry, was most interested in finding out how the justice of the peace worked. He said, "Well, when people want warrants I listen to what they have to say, and if it seems reasonable, I give them warrants." "Have you ever refused a warrant?" He couldn't recall that he ever had. "What record did you have of this warrant?" He looked in his book—he had a day book under his arm—and he said, "It says 'warrant issued'." "Any other record of the information?" "No, I threw that away." "Why don't you keep some record of what was put before you?" "Well, I haven't got a filing cabinet."

It was actually quite ludicrous to hear that in an event like this, here was this

gentleman who didn't have a filing cabinet and he just issued the warrants more or less pro forma. It was very hard to believe that he did anything other than what the police asked him to do; that he really brought no judicial discretion to bear at all.

Then when we had that crime inquiry some years ago in Ontario there were equal and similar complaints about justices of the peace, and one would hope that by now someone in the Attorney General's office, the Attorney General or his officials, would take this much more seriously. These are important people, exercising an important discretion in the administration of justice. They should be chosen with more care, and they should be given better facilities. The question of pay speaks for itself. They should be given a course of training. I think this is a crying need.

The whole thing insofar as the availability of funds is, of course, most germane to this discussion. There was a fascinating decision by the Master reported in the weekly reports the other day about how much should he award for examinations for discovery. He looked at the tariff and said, "Well the tariff is there and I can see what it says and according to the law I should be bound by the tariff, but I know that the plaintiff, because he's got his paid bills here, spent far more than that." Then by some great process of circumlocution he awarded more than the tariff allowed him to award.

Now, when the Master does that—it was McBride, and he does it in his own colourful language, and he does it through five or six or eight pages—obviously he is trying to send out a message with some judicial discretion. Surely it makes the law look a little stupid when we've prescribed tariffs for certain services, or we pay fees, and the Master sits and gives august judgement which is inscribed in the reports that the lawyers read and chuckle about, and says "It's unfortunate that the tariff is such and such, but nobody pays that," and if you do offer to pay that, you're never going to get a transcript. Woe betide the poor lawyer who says, "I'm only going to pay you, Mr. Reporter, what the tariff prescribes." He'll never get an appointment and he'll never get a transcript.

I worry about these things because I think that we are demeaning the process of justice when we don't make fees for court reporters, for jurors, for all of these services, for justices of the peace, adequate. I find it quite unusual that the justice of the peace should be expected to pay his own overhead. Does the one who sits up in North York in the courthouse there in an office—he has a desk

and so on—does he pay for rent of that? Or does he get less money? Probably not.

What about the ones who wander about in the middle of the night? I used to have a joke with some of your predecessors about the justice of the peace who was assigned to the west end of Toronto. He just suddenly went south when somebody got arrested and thrown in the lock-up in North York. The 24 hour process for bail in North York is a little difficult to follow sometimes.

But this is a very, very serious part of the administration of justice and the people who are hurt most by it probably are the people that are least able to defend themselves.

Hon. Mr. McMurtry: The bail JPs and, as a matter of fact, Mr. Singer, I think virtually all JPs in the judicial district of York, are full-time on salary. They don't pay their overhead.

Mr. Singer: I think the system, if you read the report of the judge—who was the judge who did that Niagara royal commission?

Hon. Mr. McMurtry: Pringle.

Mr. Singer: Yes. He was quite sarcastic and nasty about the JP system, as deservedly he should have been. If you listen to the evidence of that witness you had to be. It was a function that he performed and a fee he collected, but he really didn't bring any discretion to bear. He couldn't have cared less.

Mr. Roy: And if he didn't get paid he didn't go through with it.

Mr. Singer: Yes. And his records were in a book no bigger than this—his whole record.

Hon. Mr. McMurtry: I understand that since this inquiry suitable directions have gone out to the JPs to see that all copies of these documents are kept.

Mrs. Campbell: From whom?

Hon. Mr. McMurtry: It would have gone out from Chief Judge Hayes.

Mr. Singer: It's unfortunate really that we only get these halting reforms each time there's a royal commission. I think we got them out of the police stations and the police offices as a result of the royal commission on crime. We didn't get rid of the retired police officer who's serving with his friends. That's dubious, you know, because here you get nice old Joe who gave good police service and to let him retire in some dignity we'll let him be a JP and he'll do whatever we say anyway because we all know him. It's unfortunate to have to say

that, but the system unfortunately is working in that way in some places. And it shouldn't.

Mrs. Parker's comments, I think, bear careful consideration.

She's got no great axe to grind. She went, she saw, she didn't like it, and she quit.

Mrs. Campbell: She didn't conquer either.

Mr. Singer: No, she didn't conquer. She wrote out what she had to say. So that's one. There's the question of appropriate fees for reporters, the question of investigation of modern methods of transcriptions, both in discovery and in-court procedures. I don't know the extent to which we are up-to-date. I remember one registrar of the Supreme Court of Ontario, recently retired, was spending an awful lot of his time looking at these systems and arguing with some of the judges who thought it was almost sacrilege to do it with anything other than by shorthand.

We've got substantially a new bench. Whether or not there are useful and appropriate and helpful transcription systems available, the delays that are occasioned by getting transcripts for criminal appeals, civil appeals, all of these things—there's the difficulty in attracting new and young people to the reporting service. Court reporter—who wants to take that kind of intense training? If they have that kind of highly developed skill do they want that kind of job in light of the salaries that are presently being paid? There are very few young people I've seen who are good court reporters, shorthand court reporters. There are young people who talk into the face masks and who transcribe. But there are very few young people who seem to be attracted into this.

Hon. Mr. McMurtry: I think shorthand reporting has gone out, hasn't it? The shorthand reporting?

Mr. Callaghan: They're trying to get electronic stuff but we can't afford it.

Mr. Vice-Chairman: We did cover this the other day, when you weren't here, rather extensively. Did you want to comment further?

Hon. Mr. McMurtry: No. Other than to say we have been looking at this electronic equipment that we hope we will be able to purchase in future, which will expedite the production of transcripts quite dramatically and at a lesser cost.

Mrs. Campbell: I don't know whether you covered this. Sorry if I am covering ground

you have already covered, but what about courses? You have got courses for judges, you have got courses for a whole bunch of people. What about courses for court administrators? What have you done about that to try to bring them into the 20th century?

Hon. Mr. McMurtry: There are courses for court administrators and some of our people have gone and taken the courses. Was it out in Colorado where it is well known? We have had people go out to—

Mrs. Campbell: Do they go by choice or are they directed there?

Hon. Mr. McMurtry: They are directed there by the ministry.

Mrs. Campbell: Have you been able to set up a continuing and better liaison between the courts and the Attorney General than prevailed in the past?

Hon. Mr. McMurtry: As you know, with our new white paper on court administration, our intention is to create a whole new structure in relation to court administration.

Mrs. Campbell: I understand that when I wasn't here you did cover the matter of jury fees and witness fees. Could I know what the answers were?

Hon. Mr. McMurtry: Yes.

Mrs. Campbell: Are you trying to get them increases?

Hon. Mr. McMurtry: The answer was that we believe they are merited. We just simply can't afford them at the present time.

Mrs. Campbell: Then we are in the category of former Chief Justice McRuer; you are working towards better justice, but not towards justice.

Hon. Mr. McMurtry: Of course this is where you and I would differ, Mrs. Campbell. I don't believe that the witness' fees or the jurors' fees create any lack of justice or in any way detrimentally affect the judicial process. First of all, we are talking about criminal cases and, fortunately, virtually every citizen who is called upon to give evidence in a criminal case or is called for jury duty generally recognizes the importance of their contribution. I don't think that their evidence is of a lesser quality or is their service as juror of a lesser quality because the stipend is not more generous. There is no question

that we want to pay more, and will. Fortunately, most employers do not deduct salary for attendance in court or for serving on a jury. Most unions cover this in their collective agreements. But, having said all of that, I agree that it should be increased.

Mrs. Campbell: I am concerned because a case came to my attention recently of a juror who was on a very protracted trial. It was a mother who lived out in Etobicoke. By the time she worked on the family problems to get the children all looked after for a day, she had to drive down because of the timing. She had to park her car. She had to have some lunch and her husband was complaining that it was costing him money. It should reasonably cover her expenses and it did not come anywhere close to covering her expenses.

As far as witnesses are concerned, I think you will find that an awful lot of witnesses just don't see anything that is happening. It starts there. They just didn't see anything. Perhaps if they didn't have to lose time from work with no reasonable compensation, they might have seen some of the things that went on. Surely the Attorney General is not saying he is not aware of the fact that people don't get involved. Is he saying that?

[5:45]

Hon. Mr. McMurtry: We've gone through all of this.

Mrs. Campbell: Right, right.

Hon. Mr. McMurtry: I think my position is—

Mrs. Campbell: Just the same.

Hon. Mr. McMurtry: —on the record.

Mrs. Campbell: We could limp along a little longer. We do feel that the judges' salaries should be improved and I agree with you that unless you are going to give equal consideration to all of the facets of justice, it seems to me that you are destroying your system.

Mr. Vice-Chairman: I have no other speakers on my list for this particular vote, Mr. Lawlor.

Mr. Lawlor: Let me say one thing. There are 351 recommendations on the court picture of which we've touched on possibly half in one way or another. We could go on with the other 150, but we won't.

Mr. Vice-Chairman: Shall this vote carry?

Mr. Roy: Mr. Chairman, I have one more comment on the small claims court, Mr. Attorney General.

Has any thought at all been given to simplifying the whole process in small claims, similar to what has happened in Quebec? Can the process be simplified to a degree where a person with a small claim can go see an official and just put his bill in and then a short while later he appears before an official and an adjudication takes place, without any interference or undue impediments by the rules of practice or the rules of the small claims court, without this process of people running around, where they get a summons and they've got to run in and put in a—what is it called? It's not called a defence at that level, it's called—I don't know what it is, dispute?

Hon. Mr. McMurtry: Dispute.

Mr. Roy: One area we tend to neglect is the small claims court.

Hon. Mr. McMurtry: We talked about this at some length earlier in these estimates—

Mr. Roy: Yes.

Hon. Mr. McMurtry: —and I indicated at that time we were going to be introducing legislation in relation to the small claims court in the spring, that we were going to attempt to increase the use of referees in the small claims court in order to assist the conciliation process.

As you know, the procedure in the small claims court is pretty simple right now. You go into the court office, as a citizen you write out your claim; you pay a fee and your claim is served on the other party, you don't have to worry about that. Then you're given either a trial date to come and prove your damages, or if there's a dispute you're given a copy of the dispute and the trial date.

When we introduce this legislation, or before, you and I could talk about it, because I'd be interested to know what your ideas are as to how we could further simplify that without adversely affecting some fundamental rights, that is the right of the defendant to have proper notice of the nature of the claim and have a reasonable opportunity to defend himself.

Also I should say that in the rules we are also proposing to simplify the introduction of evidence, to adopt what's happened in relation to The Statutory Powers Procedure Act in relation to the filing of documents as proof thereof without calling formal evidence; and

also the introduction of hearsay evidence subject to discretion of the trial judge.

Mr. Roy: Yes.

Hon. Mr. McMurtry: So I think we will make some progress in that direction.

Mr. Roy: Well, I frankly don't have extensive experience in that court, but I'm not too far away from my student days to be able to make some contribution. Possibly you and I at some other time can discuss how. From what you're saying you're certainly going along the right line, because you've got to really make it as simple as possible and work on the basis that two individuals will be sitting there in front of a referee without the interference of a counsel—

Mr. Vice-Chairman: I'm glad you said that.

Hon. Mr. McMurtry: We also propose to increase the jurisdiction of the court, because as you know county court procedures make it pretty expensive for the litigation of the small amount of money. So it's our intention to increase the jurisdiction of the small claims court to \$1,000, again to assist the individual putting forth claims without the intervention of the lawyer, up to that figure at least, at a minimum cost.

Mr. Roy: Just one final thing. The system in the small claims court—I don't know if they do it in Toronto here, I suspect they would, where you call in lawyers to sit in—

Hon. Mr. McMurtry: As part-time judges.

Mr. Roy: As part-time judges, which works out pretty well. That system should possibly be given some consideration in your criminal courts. Instead of having your justices of the peace all the time adjudicating—we talk about the closed-shop system—I think it would be just as good to call certain lawyers in because there you have an individual who, at least on the surface, has a legal background, is independent and can adjudicate. To me that would be more effective.

It's ironic that we do it, for instance for property when you're involving sums of money and that you have got a lawyer who's doing the work; and yet when you're affecting people's rights; even though it's minor under provincial statutes—but he could lose his licence; he could lose points; he can be fined and things of this nature—you get an official who has some experience, a justice of the peace who's come up through the ranks. It might not be a bad idea if you'd give some consideration to having lawyers come in and

sit. Most lawyers I've talked to who sit on the small claims court seem to enjoy it and most of the fellows I've talked to don't even know how much they're getting paid to do this. They don't seem to be—

Hon. Mr. McMurtry: I used to do it, I never got paid.

Mrs. Campbell: They don't get paid?

Mr. Roy: They don't?

Hon. Mr. McMurtry: I remember I used to sit as a part-time judge and I never got paid for it.

Mrs. Campbell: Do they now?

Mr. Roy: I think they get \$75 a day or something.

Hon. Mr. McMurtry: We didn't used to.

Mr. Roy: How much do they get?

Mr. Callaghan: One hundred dollars a day.

Mr. Roy: A hundred? I would think a lot of them would sit for something less than that just to get out of the office. To many of them it's an enjoyable experience and I would think it might be something that might be worth looking at.

Hon. Mr. McMurtry: All right. Thank you, Mr. Roy.

Vote 1206 agreed to.

Mr. Vice-Chairman: We will move on tomorrow to vote 1207. Again, we will sit after the question period. That's the final vote in

these estimates and we have tomorrow and Wednesday. We've agreed that we will complete by Wednesday evening.

The question has been raised, are we sitting tomorrow evening? What is the pleasure of the committee? You have one vote to finish. You have tomorrow and Wednesday.

Hon. Mr. McMurtry: Mr. Lawlor at the beginning of the day seemed to think that we would finish, but he's only the Chairman.

Mr. Vice-Chairman: The Chairman of the committee can now assume the chair.

Hon. Mr. McMurtry: We should finish by tomorrow at supper time.

Mr. Lawlor: Why can't we finish today?

Hon. Mr. McMurtry: That's right, you said you thought we might even finish today.

Mr. Roy: We can't finish today, you know that, Mr. Lawlor.

Mr. Lawlor: Tomorrow. I doubt if we'll be sitting tomorrow night, but that's—

Mr. Roy: The reason we didn't finish today, I think Mr. Lawlor more than anyone else might know.

Mr. Vice-Chairman: Okay. The committee will sit tomorrow after question period until 6 p.m. You have one vote to finish. By agreement of the parties we will conclude on Wednesday if that final vote is not finished.

The committee adjourned at 5:55 p.m.

CONTENTS

Monday, November 8, 1976

Courts administration programme	S-2903
Programme administration	S-2903
County, district and small claims courts	S-2932
Adjournment	S-2933

SPEAKERS IN THIS ISSUE

Breagh, M.; Vice-Chairman (Oshawa NDP)
 Campbell, M. (St. George L)
 Drea, F. (Scarborough Centre PC)
 Lawlor, P. D.; Chairman (Lakeshore NDP)
 McMurtry, Hon. R.; Attorney General (Eglinton PC)
 Roy, A. J. (Ottawa East L)
 Sandeman, G. (Peterborough NDP)
 Singer, V. M. (Wilson Heights L)

Ministry of the Attorney General officials taking part:
 Callaghan, F. W.; Deputy Attorney General
 McLoughlin, B. W., General Manager
 Wright, B., Assistant Deputy Attorney General, Civil Law

10 107
15 104



Government
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Legislature of Ontario Debates

SUPPLY COMMITTEE—1

ESTIMATES, MINISTRY OF
LABOUR

OFFICIAL REPORT — DAILY EDITION

Third Session of the 30th Parliament

Tuesday, November 9, 1976

Afternoon Session

Speaker: Honourable Russell Daniel Rowe

Clerk: Roderick Lewis, QC

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CONTENTS

A list of the speakers taking part in the debates in this issue of Hansard appears, in alphabetical order, at the back of this issue.

Daily contents of proceedings also appears at the back of this issue. Reference to a cumulative index of previous issues can be obtained by calling the Hansard Reporting Service indexing staff. (Phone 965-2159)

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LEGISLATURE OF ONTARIO

SUPPLY COMMITTEE

TUESDAY, NOVEMBER 9, 1976

The committee met at 3:18 p.m.

ESTIMATES, MINISTRY OF LABOUR (continued)

On vote 2203, women's programme; item 2, women Crown employees office:

Mr. Vice-Chairman: I see a quorum and Ms. Bryden has the floor. It's my understanding that we have half an hour to finish item 2 and item 3, is that correct?

Ms. Bryden: That is my understanding, Mr. Vice-Chairman, so I would hope that we would spend 10 minutes on item 2 and then move on to item 3 as soon as possible. There are two or three questions I have still on item 2 that I would like to raise.

The first one is, in the public service there is a position known as clerical typist 2, and another position as clerk general, and traditionally the first one has been filled by women and the second one by men, and that appears to be the main reason why there has been a salary differential of \$4.27 in their rates. The arbitration board that considered public service salaries suggested an increase of \$15 a week plus seven per cent for both categories but the AIB rolled back the settlement so that the differential has now been increased and it is now \$6.75 per week between two jobs that are, as one female and the other traditionally male. It seems to me that this is definitely contrary to what the ministry is trying to do through the women Crown employees office and I wonder if the minister has made any protest to the AIB about this counter-action to the objectives of the ministry's programme? That's my first question.

Hon. B. Stephenson: Can I answer it now?

Ms. Bryden: Yes.

Hon. B. Stephenson: No I have not. You have just made me aware of the increased disparity and this we will look into. Do you have something you want to make clear?

Mrs. Eastham: I just wanted to say that we are concerned, irrespective of the impact of the AIB on this difference. It is a historical difference, as you have pointed out. We have raised this as a matter of concern and we are discussing it with the staff relations people in the Civil Service Commission.

Ms. Bryden: I believe one of the employees classified as clerical typist did make an appeal to the grievance board to be reclassified. She was informed that she was correctly classified the way the present rules are. So, perhaps that should be looked into also, the classification of those two titles.

My second question relates to the differential pay for certain occupations in the public service, which we started to point out two or three years ago. Barbers and hairdressers were paid differently, and seamstresses and tailors were paid differently although they did substantially the same work. Male cleaners and female cleaners were paid differently. Male food service workers and female food service workers were paid differently. So I would like to know if these differentials have been wiped out in the public service or are we making any progress in this direction?

Hon. B. Stephenson: It is my understanding that we are making progress in this direction. Kay, would you like to elaborate on that?

Mrs. Eastham: Yes. Three of the differences were cleared up quite quickly after the issue was identified. The other area that took longer and involved more employees was with regard to building cleaners and building cleaner-helpers. The Civil Service Commission, with the employment standards branch, have resolved this area. There have been resulting reclassifications, and retroactive payments totalling \$3,400 have been paid back to the women affected.

As well as actually settling the cases that were found, the Civil Service Commission,

the women Crown employees office and the employment standards branch were concerned enough to take preventive action. A series of seminars on the equal pay legislation in Ontario was held in locations across the province involving managers in the OPS to prevent those kinds of situations from happening again.

Ms. Bryden: Did you say it was cleared up in three out of four areas, but not in the fourth?

Mrs. Eastham: No, the fourth is now cleared up.

Ms. Bryden: That's the cleaners?

Mrs. Eastham: Yes.

Ms. Bryden: And the food services workers?

Mrs. Eastham: All four areas have been cleared now.

Ms. Bryden: My third question, Mr. Chairman, concerns the 25 recommendations in the 1974-75 report of the women Crown employees office. Could you tell us what progress has been made on those 25, statistically that is? How many have been implemented? Without going into each recommendation, how many have been implemented and how many still are under study or awaiting some action?

Mrs. Eastham: Those recommendations fell into two main types. Some of them were recommendations to ministries with regard to action we felt they should be taking in their own ministries, and the second annual report does address the actions of the ministries in terms of implementing those types of recommendations. The other recommendations were directed to the central agencies, either to Management Board itself or to the Civil Service Commission. They were considered by the staff of both of those central agencies, and a report was presented to Management Board and cabinet in April of this year. Our second annual report does detail the response of Management Board to the recommendations of the central agencies.

Ms. Bryden: Specifically, I recall one recommendation for a central career counselling service in the Civil Service Commission. Has that been set up?

Mrs. Eastham: Yes. This has now been implemented. There has been, I think for about six months now, a full-time career counsellor in the Civil Service Commission providing career counselling to male and

female employees. So one has been implemented.

Ms. Bryden: I think we dealt with affirmative action yesterday. Could you indicate how much affirmative action is being done in Crown agencies, that is, Crown corporations? Are there officers in each of them, full-time or part-time?

Mrs. Eastham: One of the things we found when we first started was that there were well over 500 Crown agencies, boards and commissions under provincial jurisdiction. One of our first jobs was to find out where they were, whether they had any employees and what we should do with that number. What we found was that many agencies had no employees so the question of the status of their women employees was not relevant. Many commissions, such as the Human Rights Commission, for example, in this ministry, come within the ministry's staff and are dealt with by that ministry's affirmative action programme.

We whittled down that number until we were left with, I think, about five or six Crown agencies that we do work with. These would be Crown agencies, such as the Workmen's Compensation Board. All of those agencies now do have a women's adviser. Those women's advisers are members of the affirmative action council. While their personnel regulations are not exactly the same as within the OPS, they are working on the programme.

Ms. Bryden: Are they generally full-time?

Mrs. Eastham: That varies depending on the agency.

Ms. Bryden: Some of them sound as if they have a large number of women employees.

Mrs. Eastham: One large group that has just this last year been brought into the fold is the employees of the community colleges. Separate guidelines on affirmative action have been issued to the community colleges.

Ms. Bryden: Could I ask the minister is there any intention to put these guidelines into legislative form so that they are more definite?

Hon. B. Stephenson: I think they are reasonably definite now in the form in which they presently exist as guidelines. I would anticipate that if the response to the development of guidelines and fairly active affirmative action programmes is not sufficiently

beneficial to the 50 per cent of the population which happens to be female, then some consideration might be given to that, but I don't see that in the immediate future.

Ms. Bryden: I think that's all I have on item 2.

Item 2 agreed to.

On item 3, vote 2203, women's bureau:

Ms. Bryden: We are now dealing with the women's bureau which gets the magnificent sum of \$264,000 to look after all the women in the labour force or potential labour force people in Ontario. I think it is a very inadequate sum of money for the kind of work that it's expected to do. I can see its role as being threefold. One is changing attitudes, which is one of the major reasons why women are receiving smaller rates of pay, are not able to enter all occupations on the same basis as males and are facing barriers to entering different occupations. That is one important part of its job.

Secondly, I see it as a place where employment standards will be enforced for women particularly. Many of them need the protection of The Employment Standards Act for equal pay, for their rights in the work place since a great many of them are not organized and for assistance or at least encouragement in organizing. Thirdly, I see the women's bureau as an agency that counsels women who wish to enter the labour force.

[3:30]

In those three areas the measure of how effective a job the agency is doing is whether attitudes have changed, whether opportunities have broadened and whether pay differentials have disappeared. It would certainly appear that within the public service they haven't changed very much from what we heard yesterday. The figures in the private sector, from the latest income tax statistics, seem to indicate that the differential between male and female earnings is increasing rather than decreasing, and there are still a great many barriers to women entering occupational fields or to changing the occupational mix, which is one of the major reasons why women are paid less than men. I think we still have a long way to go on changing the status of women, and this amount of money to me looks very inadequate for it.

I have several questions. First of all, on the affirmative action in private industry programme, could you tell us how much money and staff is committed to it this year? Is it applied only to firms which invite the ministry in? How much of it is done outside the

major urban centres, outside of, say, the two or three big cities? And is there a commitment to expand this programme? Could you perhaps deal with that at this moment?

Hon. B. Stephenson: Yes, in the private sector it is, I think, entirely necessary that the companies involved be at least receptive to the idea of affirmative action. Therefore, it is very unlikely that we would be attempting to work with companies which are obviously antagonistic to the suggestion. However, I don't think that the experience has been that those which have been contacted by the bureau itself have demonstrated any great antagonism toward the programme. Some of them obviously have greater enthusiasm than others. As to the number of people in Marnie's branch totally committed to the affirmative action programme—the whole branch is committed to affirmative action but they don't spend full time in the affirmative action programme—can you delineate the numbers that specifically are?

Mrs. Clarke: Yes. Working in the affirmative action area specifically with corporations and beginning to move into the area of working with unions we have two contract staff, one permanent staff member and support staff, and for that programme, taking away the salary of the full-time person it's approximately \$47,000.

Ms. Bryden: That seem to me very inadequate to cover the entire public sector, and while you say that you would only go into firms that are favourable to affirmative action, the whole changing of attitudes, if you take that as part of the mandate of the bureau, really requires that you start to have some programmes that will attract the attention of firms that do not have affirmative action programmes and have not even considered them as yet.

Hon. B. Stephenson: I'm sorry, one of the questions that we didn't answer was the number of firms or associations or unions outside of Metropolitan Toronto.

Mrs. Clarke: I can't give you exact numbers in that, but in terms of the employer contacts, the southwest and central area—177 contacts; eastern Ontario—78; northern Ontario—68. We have also worked with small, medium and large corporations, from companies with less than 200 females on staff to more than 200, less than one-third its employees and more than one-third. We've tried very hard to make our contacts on a broad base, because the problems of small companies can be significantly

different. They quite often do not have human resource development people and they need more support and assistance in getting started.

I think it is important to recognize that this is only one programme of the bureau. You mentioned attitude changing as being such an important issue for the bureau and I guess we are into that all the time, from phone referrals, questions, public speaking, and publications. A great deal of that final figure in our budget that you see, called supplies and equipment, is our publications budget. We have approximately 26 publications. This goes all the way from career selectors for use in the schools to translations of labour legislation of interest to women into Greek, Portuguese, Spanish, French and Italian. And now we are getting into Cree. We are working very hard in terms of informing women of their rights. But also the changed attitude that's essential if we are going to see any changes in the final statistics has to start in the home. We spend a great deal of time on both literature and speaking to people about those issues.

Ms. Bryden: I think with limited resources, the women's bureau has done quite a bit in this area. I just feel there is a lot more that could be done. I wonder how you are able to get around to various parts of the province when I understand the regional offices of the ministry do not have anybody especially assigned to women's work. How does the women's bureau service areas outside Toronto without using some regional office staff?

Hon. B. Stephenson: They do use regional office staff specifically. They may not be designated primarily to women's bureau functions but they are aware of women's bureau activities and aware of the kinds of programmes that are going on and attempt to be of assistance by providing back-up information and also by contacting the central bureau and getting information out to them from there.

Mrs. Clarke: We do supply them with literature, too, that is available and we never refuse a speaking engagement outside Toronto. It's a rule.

Ms. Bryden: As long as you have a sufficient travel budget to get there. It is not very large. Moving on to the question of equal pay, can you tell us how many complaints were received under the equal pay legislation in 1976? In 1975, according to that book that was just issued, there were 14 awards, totalling \$35,000, but I don't

know how many complaints there were, and we have no figures for 1976. That doesn't seem to me to be very many when you look at the discrepancies in pay. Some of it is the difference in occupational opportunities but some of it is differentials between men and women doing substantially the same work. Do you have figures on the number of complaints under the equal pay legislation?

Hon. B. Stephenson: In actual fact that will come up under employment standards because employment standards is responsible for the legislation regarding equal pay for equal work. I am sure the information is available. I am not sure how many complaints we have had. Is it right there?

Mr. Armstrong: We have the annual report and there is a table on the page following page 9 showing the assessments for equal pay for equal work.

Ms. Bryden: Did you say page 9?

Mr. Armstrong: The page following 9, on the reverse side of 9. The assessments are with respect to 19 employees for a total collection of \$31,248.

Hon. B. Stephenson: Those were assessments rather than complaints registered.

Mr. Armstrong: That's right.

Ms. Bryden: You don't know how many complaints were registered for which there was no assessment made?

Mr. Armstrong: I should imagine the people speaking to employment standards would have that information.

Ms. Bryden: I find the study published by the ministry on equal pay for work of equal value, rather frustrating. While it gives us a survey of all the literature and various attempts that have been made to define what work of equal value is, it makes absolutely no recommendations even for a programme that the Ontario government might take for a specific piece of research. It just says we need more information in a lot of areas, such as the cause of pay differentials and the effect of changing pay differentials on wage rates generally and on costs.

It seems to me it's really a copout as a study and that we need far more work done in this field. The present legislation for work substantially the same doesn't seem to be producing very many rectifications of pay differentials. It may be that we have to go toward a more definite job evaluation pro-

gramme, particularly for all the women who are in positions where there is no comparable group of men and yet are receiving very low pay in relation to other people in the work force. It may be that their work is of equal value to that of many other people in the work force who are getting much more but happen to be men. I really would think that the ministry should go ahead much further than this paper recommends with further studies for equal pay for work of equal value.

Hon. B. Stephenson: We are hoping, indeed, to have a good deal of public input into the discussion of the concept itself and into the suggestions regarding those areas in which specific research and job evaluation might be carried out most profitably in order to move the concept forward if indeed it is the one that should be moved forward. When one examines all of the implications of widespread or universal application of equal pay for work of equal value, there are some disturbing thoughts regarding the future of collective bargaining for example. Indeed, the basis upon which collective bargaining is successful at this time depends upon a number of factors which will not be the same factors under an equal pay for work of equal value concept. It is because we want everyone to be really very sure about what it is we are talking about.

Our investigations led us to understand that in many areas in which legislation has been developed which is said to be equal pay for work of equal value legislation, in fact that legislation is almost exactly the same as our equal pay for equal work legislation. The concept is something which has to be understood widely and if we are to move well in that direction, I think we need some pretty clear guidance about the areas in which we might develop job evaluation programmes which would forward the advance of the concept itself. But there are, I think, some implications in this concept which have not been widely understood and I think they probably should be by a very large number of people who work in the province of Ontario.

Ms. Bryden: Just moving on to one other area that the women's bureau concerns itself with, and that is the question of protecting immigrant women and native women. Is the ministry looking into the conditions under which immigrant women are working in many of these cleaning contract firms where we certainly hear stories that they are exploited greatly? As far as the native women go, are the regional offices in areas where there are

native women in considerable numbers, specializing, or do they have somebody who specializes, in the problems of native women?

Hon. B. Stephenson: In the specific regional offices, the people who are involved with employment standards have some special knowledge of the native people's problems. Whether they are native women's problems or not is not usually specified. However, there is a good deal of activity and concern at the central level regarding this and I know a good deal of support provided as well. Marnie can probably expand upon that.

Mrs. Clarke: As you know, as with the counselling service, there is no way we can provide direct counselling or direct work with women although we do handle countless numbers of questions and so on by phone and letters. What we have tried to do instead is to inform the people who work with immigrant women and with native women—any of their associations and community agencies, legal advisers and so on. We have started a series of workshops which look at all the labour issues as they affect women, human rights legislation, the kind of protection that many of them do not know they have under law. Often the community workers don't know either and we are trying to inform them more effectively.

[3:45]

This is the other reason why we are going into foreign language and Cree with some of our publications. We just find that there is a great lack of understanding of how to use what legislation is already in place. We also, during that kind of workshop, encourage the community workers to share the problems they are having and to do some problem-solving in this area. I agree with you that it is a serious problem. The problem of a native woman in employment is perhaps even more serious in that there are so many cultural differences that make it very difficult for her to find employment. Because they are often located in a remote area, it is very difficult to help them effectively. I don't know whether there is anything else you would like me to comment on.

Ms. Bryden: No, I think that is all the questions I have.

Mr. Shore: Mr. Chairman, I just wanted to make a couple of comments that may elicit a comment from the minister or one of the staff. Firstly, on the economics of the programme, it seems to me that the more important things should be the concept and the commitment, rather than just the economics. I don't think a programme is neces-

sarily effective just by the amount of economics that are involved. As Ms. Bryden has indicated, although I don't totally agree, there is a substantial increase and I'd like to hear the minister's comments. If I look at actual 1975 and I look at the estimated 1976-77, there is a 40-per-cent-plus increase from that period of time. I think there is a substantial increase, assuming their starting base was sound. Would the minister care to comment? Is she satisfied that the concept and commitment is there?

Mr. Mancini: She told me yesterday there was no increase.

Mr. Shore: Sorry. There is a 15 per cent increase this year also. Would the minister care to comment? I assume the concept and commitment are there. Does she feel comfortable with the priority allotment of dollars for this programme?

Hon. B. Stephenson: The commitment of government is to this programme. There is no doubt about that. The commitment and the dedication of the staff involved in the programme is exemplary. I don't think we could provide for the women of Ontario any more strongly committed, more enthusiastic, or more conscientious individuals to provide the service which is being provided. I believe it will have to be expanded. I believe that indeed this is one of the areas which will require greater commitment constantly. Unfortunately, the numbers of people similar to Mrs. Eastham and Marnie Clarke are not very great. We have to develop people with the kind of capability and dedication to that programme which we require in order to expand the programme in a rational kind of way.

Ms. Sandeman: Just very briefly, Mr. Chairman, I understand the mandate at the women's bureau goes beyond employment issues for women to employment-related issues. For many women who are working, one of the major employment-related problems is the need for day care. I know we mentioned this briefly for the women Crown employees office, but I wonder if the women's bureau has been able to do more than was done a couple of years ago about identifying needs for day care. I understand that Community and Social Services is doing that kind of identification work. I know that the Summer '75, Experience 75 programme had students go out and come back to tell us that women all over the province were concerned about day care. We knew this, but I am wondering if your budget is allowing you to amass that kind of information, not just as a

statistics-gathering operation, but as the basis for other ministries, such as Community and Social Services, which is involved with the provision of day care. Is there that kind of cross-ministry work in the bureau?

Mrs. Clarke: No. There has not been a great deal of work across ministries in this area. It is an area of concern to us because we can't discuss employment and women and not have this topic come up. We do have a fact sheet that is relatively new on child care covering some of the problems that are involved and so on. Also, when we are working with companies, we speak to them about this being an important issue. Some of them are now undertaking day-care studies and either looking at encouraging municipalities to set up more day-care centres or are themselves considering the possibility. I would say we share a real concern about this issue, but other than the fact sheet and the fact that we are promoting it everywhere we go, speaking to any groups, in government or outside government, on the need for quality day care in this province—

Ms. Sandeman: It is very difficult, of course, for businesses to encourage municipalities to set up day-care centres when there is a freeze on capital funding for day care. I wonder if, that being the case, it would be more productive to encourage companies, particularly those with large numbers of employees, to consider the in-plant day care. I am very much committed to that in the plants which are safe environments for children, both for the emotional health of the child as well as the mother.

I know that if a child has an accident during the day or the alternative, the pleasures of the lunch break, if the parent and child can spend time together, that is a definite plus, also, of course, the advantages of travelling time cut down and so on. While the Ministry of Community and Social Services is making it very difficult for new day-care centres to be opened, perhaps you could be pushing even harder in both directions, both to your sister ministry and to private industry to move on this.

Mrs. Clarke: Yes, I think it is interesting to note though that in studies that I have seen on day care, many parents prefer to have a community-based system of day care so that the child is not perhaps travelling long distances by subway early in the morning and so on. Although, I can see with infants, there might be some benefit in having the baby close to the mother.

Ms. Sandeman: Of course, many of us live in cities and don't have long distances to travel on subways to go to work.

Mr. Chairman: Shall this item carry?

Mr. McClellan: Can I just, in 30 seconds, pick up on the remark that the member for Peterborough made with respect to the need for research in day care? I think that you have a ministry that is not afraid of facts and research material and hard statistical evidence. I think your record in this area is good. It is something that you can, frankly, be proud of. That makes you unique almost, in this government. It makes you very different from the Ministry of Community and Social Services. There is a real serious need to assess day-care availability and need in this province, and I urge you to continue the beginnings of work that was started in the early 1970s in the women's bureau and update that kind of work on a continuous basis.

Vote 2203 agreed to.

On vote 2204, labour services programme; item 1, programme administration:

Ms. Sandeman: I would like to say a few things under the general heading of this item, programme administration, because I think my remarks cover both the present programmes of the ministry and some of the things that I think are lacking. I know the employment standards branch has programmes to protect workers who are laid off and I know too that we have the employment adjustment programme, but what very much concerns me is what happens, particularly with small plants, that leads to the situation where you need the protection of employment standards legislation and employment adjustment workers and so on.

I find myself very disturbed and in many ways disheartened by some of the things that are going on, particularly in areas like my own where we already have high unemployment levels in the large industries and we find, time and again, small industries closing or moving out or cutting down their operations. When you look at the reasons why this kind of thing is happening, I think we have to recognize that many things are going wrong. I would just like to speak to a couple of them and give a couple of concrete examples and then ask you for comments.

I am concerned about the lack of a very firm industrial location strategy which somehow would prevent centralization in Toronto, which somehow would stop the kind

of thing that we see in central eastern Ontario, in which small plants, overnight, close down or move out or move their machinery, and the work suddenly ends up in Toronto. Goodness knows, this city is already a huge industrial conglomerate in all the areas surrounding it. We can't afford, in other areas of the province, to lose these jobs.

This is happening with conglomerates who indulge in asset stripping. We have at the moment a small firm in Omemee, Ontario, in which the labour force has shrunk from 150 to 135. It will be down to about 45 to 50 by the end of next month and the reason for that seems to be that the Regal Stationery Company is now part of the Canadian Corporate Management group, and Canadian Corporate Management have plants in Toronto. It seems that there is—I can only describe it as asset stripping—going on in the sense that the machines are being moved out of the plant in Omemee down to the plant in Toronto. Therefore, the jobs are going from Omemee which is a tiny village—that is the only industry in the village and it draws in workers from other surrounding areas—those jobs are going down to Toronto.

I would like to hear your comments on how this unacceptable, in my view—maybe you don't agree that it is unacceptable—but how this kind of unacceptable exploitation of small firms can be allowed to happen. It seems to me that a small firm would expect, perhaps naively, that if it is bought by a large solid group as Canadian Corporate Management that it would benefit by the takeover in terms of some kind of security for its jobs. They probably hope for expansion in the plant, and they find that the parent company has surveyed the scene and decided that it can make more out of it by removing the physical assets to other plants in Toronto.

I think in a plant like that, the fact that the workers have become certified has something to do with it. In this particular plant, the Regal Stationery Company, the workers were certified in April of last year, and they feel maybe wrongly, maybe rightly, that that has something to do with the fact that they are not as popular with top management as they used to be. The plants where the machinery is being moved to are unorganized plants except for one small group; the printers are organized but the general workers in the plant are not organized.

That brings me to a second point I wanted to make—my uneasiness that small companies do react in this negative way when the workers become organized. We lost and

other small plant in Peterborough recently. It was a very small plant. In fact, it employed only seven women and a couple of male management people, which I think, says something to the discussion we were having just now under the women's votes—that the work on the plant shop floor was done by the women and the management types were the men.

However, what happened, as far as one can see, with Tellus Instruments in Peterborough was that they moved literally overnight. On a Friday afternoon the employees were given a letter which said: "To all employees of Tellus Instruments Limited. The purpose of this letter is to inform you that we will be ceasing operations as of today. The reason we are ceasing operations here is that we find that we are at a competitive disadvantage in this area. We regret the inconvenience this cessation will cause you and, under the terms of The Employment Standards Act, we are giving you one week's pay in lieu of one week's notice."

[4:00]

This brings me back to my original remarks that this branch of the ministry has The Employment Standards Act to protect workers who find themselves in this situation. What we don't have are mechanisms or policies to prevent this kind of thing happening. When this firm says it finds it is at a competitive disadvantage in this area, there are two questions one has to ask. One, why do they find they are at a competitive disadvantage and, two, what area are they moving to?

The only reason one could think that they suddenly find themselves in a competitive disadvantage is that the seven female employees were organized by the UE people and a contract was signed, which raised the employees from the minimum wage, when I suppose the firm found themselves at a competitive advantage, by paying the women a minimum wage. It raised their wage to \$3.25 an hour.

The contract also had in it a clause that, if the plant was to move within the city of Peterborough, the employees, the existing employees were to be transferred to the new location. The plant went, nobody knows where. The person on the answering service told me: "yes, we have moved the manufacturing end. I'm taking phone messages here, but, no, I don't have a mailing address for the firm." We presume they just haven't closed down because all the business this firm was doing—and this bring me to a third general point—was to be a subcontractor for

Canadian General Electric in the provision of smoke detectors. At the beginning of September when they moved out of Peterborough, they had orders on the books up until December, 6,000 smoke detectors were scheduled for November and 4,000 for December. The employees had also been advised that a new product line was to be brought into the plant, starting in January, for Sears. The company had just spent about \$12,000 for new moulding equipment in order to produce the new product which was also a smoke detector.

My concerns, as I said, centre on the fact that we have employment standards legislation and we have relocation plans for employees who are put out of work, but that doesn't help a plant when they've only got seven people. All those women who have not been able to find other jobs are on unemployment insurance. What we don't have is the preventive measures to stop the assets stripping and the plants moving out; to stop them responding to a union contract which brings seven employees up from the minimum wage to \$3.25 an hour by saying they no longer are in a competitive position in this area and are going to move out, to stop them being able to say to employees on a Friday afternoon: "We are sorry to inconvenience you, but we're going."

I'm particularly disturbed in the light of the unemployment figures which were announced today, an increase of 20,000 unemployed in Ontario over last month. Some of these people I am talking about are in the small plants which are deserting the smaller cities in this province. I'd be happy to hear your comments on some of these things.

Hon. B. Stephenson: The first comment I would make is that the government does have a policy of encouraging new industry or industry which is considering expansion to move to areas outside Metropolitan Toronto specifically. As you are probably very much aware, about 35 per cent of the total immigration into Canada has landed in Toronto over the last 10 years and has not moved to areas outside of the large metropolitan sites.

There is a very specific programme which is carried on to attempt to persuade, to encourage and to entice, if you like, industry to other parts of Ontario, particularly to eastern Ontario and to northern Ontario. One is not always able to persuade, entice or encourage. It is still the final decision of the owners of the company themselves, where the plant will be located. But in terms of those plants which are already established and which are closing down for any number of reasons, the

reasons we have learned in almost all instances in which we've been notified of terminations, have been valid economic reasons on the part of the company itself.

That is an interesting statistic, however, and I am sure Ms. Sandeman will be happy to know that the entire increase in unemployment was in male unemployment and, in fact, there was a decrease of 5,000 in female unemployment in the last month. However, as I said, it is not possible always to persuade the companies to move into the areas in which the government would like to see them move. It is a decision which is made by the corporations with their goals in mind. Unfortunately, when they decide to close down we have not found they are doing it for any spiteful reasons or any reasons which are related entirely to organization, as you suggest. I don't know of any instances in which this has happened. I suppose one can surmise that that is one of the reasons which might be considered by the company itself.

Mr. Armstrong: There is perhaps one other point which should be made. You spoke of the situation in Peterborough

Hon. B. Stephenson: Omemee.

Mr. Armstrong: No, I was thinking of the second example, the small operation, Tellus Instruments. The Labour Relations Act prohibits in a general way discrimination—and I am paraphrasing now—based upon union activity. There is in particular, however, a saving provision in section 68 which states that the unfair labour practice provisions of the Act don't prohibit a suspension or discontinuance of an operation for cause. I take it there was no litigation over the situation you describe but it would be open for an aggrieved employee or a trade union representing employees to argue—I speak not of the Tellus case now, I don't know the facts on that—but it would be open for them to argue that a discontinuance of an operation for illegitimate cause would be an offence under The Labour Relations Act. So it may not be entirely accurate to say the law doesn't speak for the employees. I simply refer you to section 68 of The Labour Relations Act and to the preceding six or seven sections, which define with more precision the unfair labour practices offences under the Act.

Ms. Sandeman: Do you have any comments on the practice of asset stripping, whether it's on the financial side or the physical assets side?

Hon. B. Stephenson: That is not really a matter which comes under the purview of the Ministry of Labour. I would suppose that those who were concerned with industry might have some specific comments upon that. The actions of corporations in this area sometimes have very valid economic bases and there are other times when it is more difficult to see the basis upon which it is carried out. Although we do conduct what we consider to be a reasonably good conciliation programme in terms of employers and employees, I'm not sure that this is one of the areas in which we become involved really.

Ms. Sandeman: Well, your involvement—

Hon. B. Stephenson: Has to do with the workers.

Ms. Sandeman: —starts with these unfortunate people who, because of what happened, find themselves once again on the unemployment rolls.

Hon. B. Stephenson: Our involvement begins before that, if indeed they have been rendered unemployed by some action which is in opposition to the legislation which has been established.

Mr. Shore: Mr. Chairman, on a point of clarification I think, it seems to me it should be said for the record at least that asset stripping connotes among many people a suggestion that it is a stripping outside of the country. The company that you referred to, Canadian Corporate Management, is an all-Canadian company. I think the record should show that.

Ms. Sandeman: It's not totally all-Canadian.

Mr. Shore: Yes.

Ms. Sandeman: There's some foreign ownership. I'm quite aware that what is happening is that it's the movement within the country.

Mr. Shore: Right.

Mr. Godfrey: For clarification, Mr. Chairman, what is the terminology for a local company which strips its assets in the same way? What is the terminology for that?

Mr. Laughren: I think it's asset stripping.

Mr. Godfrey: Thank you very much.

Ms. Sandeman: It doesn't make the out-of-work worker in Peterborough feel any better if the—

Mr. Shore: I'm not debating, I just want it understood. The doctor really knew the answer before he asked it, I guess.

Mr. Laughren: What point were you clarifying?

Mr. Shore: I'm just clarifying that many people aren't quite as brilliant as you are and don't understand it.

Mr. Chairman: Have you completed your remarks?

Ms. Sandeman: Yes, thank you.

Mr. Mancini: Mr. Chairman, I would like to know from the minister if there is any directive from the programme administration branch or from yourself to have this branch look into the philosophy of job creation, especially job creation in small businesses which do not need large centres to survive?

Hon. B. Stephenson: No, it is not a responsibility of the labour services programme specifically. The Ontario Manpower Co-ordinating Committee is involved with examination of the problems of increasing opportunities for employment and it is within that specific area that the job creation philosophy is expanded and explored.

Mr. Mancini: What's that again? You said it is in that area—

Hon. B. Stephenson: Ontario Manpower Co-ordinating Committee.

Mr. Mancini: I see. And would you have jurisdiction over that?

Hon. B. Stephenson: Yes, I happen to be the chairman of the committee.

Mr. Mancini: I see. Could we have the opportunity now to have some of your opinions on what you are doing in that branch and what we can expect in the very near future?

Hon. B. Stephenson: It's not a branch of the Ministry of Labour. The Ministry of Labour is responsible for providing the secretariat—

Mr. Mancini: What I'm really trying to get at is that there is no place actually here where we can discuss job creation.

Mr. Armstrong: If I might interrupt for a moment, item 9 under vote 2201, the ministry administration programme, is the Ontario Manpower Co-ordinating Committee item and I think under the arrangement worked out, unfortunately we never reached item 9 in the

first day of the estimates or the second day, whenever it was. That is the item and its estimates are shown there.

Mr. Mancini: So we are not going to have any further comments on job creation then from the minister.

Hon. B. Stephenson: You and Mr. Bounsall arranged the programme for us, Mr. Mancini. We are at your pleasure in that structure.

Mr. Mancini: I certainly would like to hear some of the things you are doing about job creation. I think unemployment is a very serious matter today and I would like to know what you are doing to encourage job creation, and not only that, what you are doing to maintain the jobs that we already have here in the province. I would like to hear something about it. Is there any incentive—

Hon. B. Stephenson: Is it with the concurrence of the committee that we revert to that area?

Mr. Chairman: Mr. Mancini, I think we did reach an agreement and I think we should try to live within that agreement.

Mr. Mancini: Yes, I can tell it's a touchy issue.

Mr. Chairman: If we do conclude the estimates before 6 tomorrow night you possibly could ask that question then and have a discussion.

Mr. Mancini: Fine.

Mr. Chairman: We do have a deadline to meet at 6 o'clock tomorrow night.

Hon. B. Stephenson: And at that time we will make sure that the executive director of the OMCC is here.

Mr. Godfrey: Mr. Chairman, just proceeding along the same line that the representative from Peterborough was on, it has to do with—

Mr. Mancini: She was talking about job creation.

[4:15]

Mr. Godfrey: —job creation or re-creation, however you want—just going along that line I would like if I could, first, to ask you a couple of questions. You indicated that when these industries move you sort of go and speak to them, or when they cease operations you get an accounting from them of some sort of other, you can usually satisfy yourself it's on the grounds of economic bases that

they stopped operating, therefore we have lost jobs. How frank are the discussions with that? Do you get a chance to see their books?

Hon. B. Stephenson: In most instances we are informed by the company of the reasons which they consider to be valid for their cessation or diminution of operation in a specific area. We do attempt then to contact them to assist them in the development of employment adjustment programmes for their employees. As a result of those discussions, I'm sure indeed a good deal of information is exchanged regarding the reasons for the decision on the part of the company. I am not aware that we are privy to their financial statements or their books or their records at that time, are we?

Mr. Hushion: Quite often the companies do co-operate fully. The companies very often are just as unhappy about the fact that they are closing down. As well, in a number of these cases we are involved with the Ministry of Industry and Tourism in these discussions with the company to determine the reasons underlying the closing or the mass termination.

Mr. Godfrey: In the event that there have been some incentives given to the company to begin business in the first place, are those then returnable? I put to you the proposition of a company which was invited to go to a certain area and may have had certain remissions of taxes, etc., for the first few years of business and then, after they have been in business for a while, they decide they can't make any money after having made a profit for a while, then they decide to close. Is the original incentive or seed money that was put in returned to encourage another person to come there?

Hon. B. Stephenson: If the arrangement is made with the municipality, I am sure that the decision is also made with the municipality about the disposal of whatever incentives are granted.

Mr. Godfrey: Have you ever heard of any instances of the original moneys put in by the municipality being returned to the municipality?

Hon. B. Stephenson: I don't think the municipalities usually put in money. I think that they can perhaps provide them with some tax relief in certain areas.

Mr. Godfrey: As a taxpayer I have had to do that in my particular area and, therefore, when the company moves out I guess

nothing comes back to the municipality or to the province in order to compensate for the fact that they have taken money and are now leaving after it is no longer profitable?

Hon. B. Stephenson: Did you ask me if I ever heard of one?

Mr. Godfrey: Yes. Have you ever heard of one?

Hon. B. Stephenson: No.

Mr. Godfrey: I haven't either. I presume that with this company that was mentioned that left—a small company, only seven people or whatever it was—your office wouldn't necessarily be on to them to ask what was going on or anything like that?

Hon. B. Stephenson: No, we would not necessarily be informed of that one.

Mr. Godfrey: How big an operation would it be before your ministry would be involved?

Mr. Hushion: Fifty under the legislation, but through our association with Industry and Tourism and with Canada Manpower we normally try to put ourselves in a position where we can follow up to this point on situations where there are 25.

Mr. Godfrey: Are we talking about closing or moving?

Hon. B. Stephenson: Both.

Mr. Godfrey: Could you tell me what conversation you had with General Motors with regard to the parts and service department moving to Woodstock from Oshawa, which involves 150 jobs? Or I can give you another example, the CKD division of General Motors moving to Tillsonburg which involves 257 jobs.

Hon. B. Stephenson: Mr. Scott would be able to tell you.

Mr. Williams: Is this part of the diversification programme?

Hon. B. Stephenson: I think it is part of their decentralization programme.

Mr. Godfrey: While we are waiting for the details, possibly you could tell me what discussion you have had with General Motors with regard to their diversification programme? That would be a more general thing.

Mr. Hushion: As you're probably aware, under the legislation where you're talking

about less than 10 per cent of the work force, they aren't bound to notify us of situations where there may be the numbers that you're talking about. I'm not aware of any direct representations made by General Motors to us on the moves that you have mentioned.

Mr. Godfrey: May I have this clear? General Motors, a good corporate citizen, has not notified the Ministry of Labour that it is going to move some 250 to 300 jobs out of the Oshawa area?

Hon. B. Stephenson: How many people are employed by General Motors in the Oshawa area?

Mr. Godfrey: Oh, I'm not too sure, literally thousands.

Hon. B. Stephenson: Literally thousands.

Mr. Godfrey: I think it's about 8,000. I'm not too sure about that.

Hon. B. Stephenson: If the numbers involved are fewer than 10 per cent of the total work force of General Motors, our legislation does not require them to notify us.

Mr. Godfrey: I realize that, but being a good corporate citizen, I think that they might feel they should help us with our labour problems and notify us. I gather they have not been in touch with us.

Hon. B. Stephenson: To my knowledge, I have not seen a letter or any kind of information from General Motors regarding this.

Mr. Godfrey: Realizing that we are pretty well guided by statistics, 10 per cents and that sort of thing, does the fact that 250 jobs are moving out of the area, or 300 or whatever it is, concern the ministry at present?

Hon. B. Stephenson: Of course it concerns the ministry. It is quite possible, however, that many of those employees will be given the opportunity to move to the new plants which General Motors is developing.

Mr. Godfrey: Thank you.

Mr. Hushion: That's most often the case actually.

Mr. Godfrey: These are senior jobs in the parts and service and CKD, and many of the job holders are in the 50s, my age, and getting on a little older.

Hon. B. Stephenson: Stop bragging.

Mr. Godfrey: It might be a little difficult for them to move. I realize they might be given a job. Has it ever occurred that in being given the opportunity to move, it might be very difficult for them to move? For example, they'd have to give up housing which they had built with their own hands, as it were, and have to move into a fairly high-cost housing area?

Hon. B. Stephenson: When an employment adjustment programme is developed with a company, all of these factors are taken into consideration in the kind of counselling which is provided to each individual employee.

Mr. Godfrey: And what employment business was made with General Motors?

Hon. B. Stephenson: To my knowledge, no committee has been established with General Motors regarding this move.

Mr. Godfrey: This isn't the first time. General Motors moved 400 jobs in the cutting and sewing to Windsor in 1966. It moved the duplate plant to Hawkesbury a few years back. This doesn't come as a bolt out of the blue. It is something that is happening. As a matter of fact, most likely the plastic plant and the north plant may also be moved in the future.

It would seem to me that an aggressive department, for which you've just been given the accolade from my colleague over here, would be on the ball with that and be anticipating. You already know there is a General Motors diversification programme. May I ask what conversations you've had with them as to the general philosophy? I won't bother you with the details. Are they intending to diversify everything from Oshawa?

Hon. B. Stephenson: I have no idea. I have had no conversations with General Motors about this specific problem.

Mr. Godfrey: No, but about the diversification programme.

Hon. B. Stephenson: No. I have mentioned that to you before as well.

Mr. Godfrey: You've not had?

Mr. Williams: On the point, if I might interject, I have some knowledge of the General Motors employee transfer programme. It's not unusual for that company, the size that it is, to be transferring anywhere from 50 to 100 men on a monthly basis on a year-round basis. In their overall operation they take

into account the number of their employees and have a very generous employee transfer programme that takes into account the disruption factor related to the families. I don't think it's an unusual situation. As a good corporate citizen, it's very mindful of the transfers it's making all the time of its employees. They give them fair warning of the moves coming on.

Hon. B. Stephenson: Knowing the interest and the activities of the UAW in support of their membership, if they felt it were going to be particularly damaging to a large number of their membership, I'm sure that we would be requested by them. To my knowledge we have had no request at all from the United Automobile Workers to intervene, intercede or discuss with General Motors their proposed plans.

Mr. Godfrey: Mr. Chairman, would the minister accept this as a formal application via me from the UAW to look into this matter immediately?

Hon. B. Stephenson: I would have difficulty in accepting it on behalf of UAW. I will certainly accept it directly from you.

Mr. Godfrey: I assure you, in a meeting with the UAW executive on Sunday I was asked to bring this up at the Labour estimates. Now you may impugn me if you wish but I assure you I'll give you a letter.

Hon. B. Stephenson: I have no reason to impugn you.

Mr. Godfrey: I would like to suggest the urgency of it. When they're going to phase out these 350 fairly senior jobs, what happens is that a man with 27 years' seniority who has now left the line, is doing a job very capably after 27 years, and he has the choice of either moving or going back on the line. The choice of moving to another area, moving his family, as it were, is quite a financial blow and there is no financial arrangement I can assure you. There is something mentioned like \$600 but you know how far \$600 would go. He either has to move or he's put back on the line.

I can give you several specific instances of older workmen, once again in my age group, who certainly cannot tolerate being on the line again. They're put back on the line, they find they can't do the job, and then they are out of work.

I would suggest to you of this number who are to be transferred, a full 50 per cent—and this is a reasonably good basis for the figures I am giving you—will be unable to

stay with the job. A certain number already are on sick leave, or on compensation, or on layoff status.

This seems to me to be a pretty poor way to do things. I point out to you another worker, 58 years of age, who was told on Friday night that he would no longer be required, they were transferring his job at Oshawa, and on Monday morning he had to report to the radio assembly line. There's just no way a man of that age could do that.

Another worker, 63 years old, was taken off his job on the line and put to stacking equipment and parts some 50 feet above ground.

There are certain inequities in this, because although they have a diversification programme, which lets them transfer the worker somewhere else or offer him an alternate job, it seems to me there is an inequity in asking a senior man who's older to get back on the production line in order to hold his job.

Indeed, I wonder whether we're not getting to the stage where we should be talking about the worker's rights in his job—the worker's right to his job or the equivalent. I don't mean just any job; I mean an equivalent job which he can handle. He's invested a great deal of his life in the job. He's been paid for it, it's true, but he has generated a profit for the company for which he is working. I wonder whether we should not be enshrining, not as a matter of labour negotiations but as a matter of actual statute, that a worker has a right to that job.

If the industry is going to move away, first of all the industry must make it reasonable and clear as to why it is moving. I don't know why General Motors is moving. Actually you speak very glibly about a diversification programme. Is it a programme or a scheme? That's what concerns me. Is General Motors embarking on a programme to remove its support in general from Oshawa and go to Tillsonburg? Have any inducements been offered General Motors to go to Tillsonburg?

Hon. B. Stephenson: I have no knowledge of any inducements of any kind.

Mr. Godfrey: Or Woodstock? There have been no inducements made? What we are doing here is, we're sort of allocating unemployment. If we take these 300 jobs out of Oshawa and put them in Tillsonburg, it is obvious that we're employing people in Tillsonburg. That's great. That makes the figures go up. But we're making people

unemployed in Oshawa and that makes them go down.

[4:30]

It would seem to me, in the absence of a proper industrial strategy which this province needs very badly, that we must ask that before companies can move their plants or move their operation they should be required to justify it to a certain degree. Let's consider just the 300 workers, and this is a very small group. You've already told me there are 100 moving every month. I presume you are aware of that, that 100 people are moving every month from General Motors, and you still haven't worked out a scheme with them for transferring, I gather.

Mr. Williams: I'm saying in their overall operations.

Mr. Godfrey: But I'm informed by the worthy member that 100 move every month. That's a pretty sizable number.

Let us look at the social cost to the community and the fact that the schools and other facilities that have been built are no longer going to be required. At least there is a change in requirement on them. It would seem to me that all of those things could be put into a package which would help our province to develop a better industrial strategy.

I come back again to the immediate situation, and I would really urge upon the minister that she discuss as soon as possible this latest move on the part of General Motors, and possibly in discussing it with them that she would help to devise some sort of a programme as to how they are going to see the future developments around that area. At present Oshawa and the Durham region is being starved of industry and we are very concerned that too much of it is coming into Toronto and not enough is going east.

Mr. Shore: It's air pollution.

Mr. Godfrey: Mr. Chairman, can't you control that fellow over there? He's irrepresible. Since he moved he's an absolutely new man. It used to be he was a glum financial critic, now he has become literally a clown of the back benches.

Mr. Ruston: What about all of the industries moving out of the "golden horseshoe" into other areas?

Mr. Chairman: Have you concluded your remarks?

Mr. Godfrey: Thank you, Mr. Chairman, unless the minister wishes to answer specifically.

Hon. B. Stephenson: Specifically I will request some information regarding the intentions of General Motors and the kind of programme which they are carrying on in terms of moving their workers from one area to another.

Mr. Laughren: Mr. Chairman, just before I say what I had intended to say I want to follow up briefly on what my colleague Mr. Godfrey has said. I've often thought as well that over a period of time, almost like a pension plan, a person's job should almost become a vested one, because of the investment the worker has in that job. In other words, a proprietary right to the job. That would be breaking new ground on the part of the ministry, to put it mildly, to express that attitude I realize.

Mr. Godfrey: In simple terms.

Mr. Laughren: I think some thought should be given to that in this day and age. What I really want to ask the minister was to what extent this ministry was involved—and I'm seeking information here, because I don't understand what process the layoff at Falconbridge a year ago went through to reach the decision that was made a couple of weeks ago, concerning reinstating or paying those workers 12 weeks' pay because of the failure of Falconbridge to give a termination notice to the 400 employees. I'm wondering, did that go through the Ontario Labour Relations Board?

Mr. Armstrong: No. Mr. Scott can tell you in detail, but there was a reference, as I recall, under section 51 of The Employment Standards Act, to a referee to determine whether the workers qualified for the notice provided by the Act in the event of a closure. There was a dispute as to whether the Falconbridge incident involved the closure within the meaning of the pertinent section of the Act and that matter was referred to the referee—

Mr. Laughren: Excuse me, what referee? That's where I am confused.

Mr. Armstrong: When there is a dispute in matters of this sort, the Act provides for the appointment of an independent referee, who in this case I think was Prof. Simmons of Queen's University, who conducted a hearing and took evidence and heard argument

and then delivered a judgement. The judgement is enforceable as a judgement of the court, and it may be appealed.

Mr. Laughren: I believe it is being appealed. Falconbridge is going to appeal it, the company said. To whom do they appeal that?

Mr. Armstrong: We're not involved in that one.

Mr. Laughren: Is it the courts?

Mr. Armstrong: I would want to check the Act more closely but I assume that would be an application for judicial review before the Supreme Court of Ontario. Is that matter under appeal to the divisional court?

Mr. J. Scott: I am not aware that it had been appealed.

Mr. Armstrong: My impression, again from newspaper reports, is that Falconbridge intended to make an application for judicial review. As you know, Mr. Laughren, that would be on rather limited grounds, that is to say, whether the referee had exceeded his jurisdiction or not in making the decision that he did.

Mr. Laughren: Would it also have the power to reverse the decision or just to state whether or not he was within his jurisdiction?

Mr. Armstrong: If the court found he had exceeded his jurisdiction, the effect would be a reversal. It's not a full appellant right; it's a question of whether in effect the referee asked himself the right question, not to review the merits and pros and cons of the arguments that were addressed to him. If I can make the point clear, it's not a review on the merits; it's to determine whether he stayed within his assigned jurisdiction.

Mr. Laughren: And if he did?

Mr. Armstrong: If he did, then the result would stand.

Mr. Laughren: There would not be an appeal then.

Mr. Armstrong: There would not be a reversal of his decision.

Mr. Laughren: But could there be a further appeal then?

Mr. Armstrong: To the Court of Appeal on leave, again on the question of the extent to which he stayed within his jurisdiction.

Mr. Laughren: It would be still possible for an appeal to be launched.

Mr. Armstrong: It would still be possible. I don't want to comment on the merits of this case because I don't know them, but it's a narrow jurisdictional ground that the board will be looking at.

Mr. Laughren: What struck me about that—and perhaps the minister could comment—was that in a government, in which the Ministry of Industry and Tourism does battle for industry, small business, and in which the Ministry of Housing tries to get houses built and indeed builds them sometimes, it was revealing that the Ministry of Labour didn't do battle for the employees whose employment was terminated. I believe they launched the appeal and that when it was raised in the Legislature at the time—I think you were the Minister of Labour then—it was indicated that there was really nothing that could be done. Yet here we have a situation where, when it is investigated and when someone does pursue it, a decision is made that's in favour of the workers who were laid off. There was a great deal at stake there. I think it's 12 weeks termination pay for all 400 workers. The result of that judgement could mean about a million dollars in total. To each worker that's a considerable amount of money too, because it represented 12 weeks pay.

It bothers me that the Ministry of Labour, through the last five years that I have been here, has always proudly stated that it was neutral in all matters affecting labour. I was hoping that this minister would see her role as being not neutral, but pro-labour and standing and doing battle with labour and for labour on an issue such as this, where there was an infraction of the rules, whether or not in the end the judgement stands or not. The fact is that it was obviously a marginal situation, at best it was marginal. It would have been an ideal time for the Ministry of Labour to say there is something wrong with that kind of decision when the circumstances of that layoff were such that they should themselves have warranted an investigation by the Ministry of Labour.

If I might refresh your memory, this 74-day strike was settled and four days later, after the union had notified all its membership, some of whom were employed in other mines across Ontario and elsewhere, that they could now return to the Sudbury area because the strike had been settled and the workers came back, Falconbridge announced a layoff of 400 workers. At that time we thought it was going to be a lot higher but it resulted in a 400-man layoff of their operations in Sudbury.

It was those kinds of tactics that I found so terribly reprehensible immediately after the strike was settled. I think that's where we would like to see the Ministry of Labour play a different role and not be so neutral and not stand back and say, "Well, we will let the chips fall as they will, because after all as the Ministry of Labour we can't take sides." I think you should take sides, because the other side has friends in government and the workers sure need some friends in this government, and I really wish that the Minister of Labour would see that as her role.

Hon. B. Stephenson: Mr. Chairman, the role that I see for the ministry is that it functions on behalf of all of the people who work in this province.

Mr. Laughren: Do you not think the people at Falconbridge who were laid off, work?

Hon. B. Stephenson: Yes, and as a result of the investigations which were carried out, the questions which you raised in the Legislature about the possible infractions led us to further investigate the information which was given to us by Falconbridge, and as a result of the information which was developed a referee was appointed to examine this specific problem.

Mr. Laughren: Because the United Steelworkers, representing the office and technical workers at Falconbridge, made the point that that was what was required, not because of any great initiative on the part of the Minister of Labour.

Hon. B. Stephenson: Is it not the responsibility of the union to function in this way on behalf of its membership?

Mr. Laughren: Oh, yes, but my point is that the Minister of Labour should be in a position to take the initiative in a situation like that, just as in the situation with the layoffs or the plant closings or the plant moves, that the Minister of Labour does not see her role to take the initiative and go in there and see if those workers can be protected. You don't see that as your role and that's what's bothering me.

Hon. B. Stephenson: But that's precisely what we do in terms of layoffs.

Mr. Laughren: You didn't. You didn't in the Falconbridge layoff.

Hon. B. Stephenson: It had to be examined to ascertain whether, in fact, the company

was performing within the limits of the legislation.

Mr. Laughren: It's strange that the trade union involved saw that before you did. That is what I find strange.

Mr. Shore: Mr. Chairman, I will just start by saying that I don't think my colleagues opposite in the NDP have any special licence to sympathize with the community disruption and the human disruption that takes place with the closing of a plant or the moving of a plant. I certainly sympathize with this situation. As a matter of fact, in my professional capacity in accounting and in receiver-ship work I particularly had a lesson brought home to me over the years in this area and it becomes very inhumane and disruptive. I would like to cite, for their education and knowledge, if they are interested—

Mr. Laughren: You have got a conflict there if you benefit from the bankruptcy.

Mr. Shore: I will tell you, no one benefits substantially from that, but I would like to cite for the benefit of those opposite who may be interested in learning—and I would have liked to have seen here the member for Peterborough (Ms. Sandeman) and the doctor who came in and made his speech and decided to leave—they may learn something by some of these comments. This isn't speaking in generalities and this isn't talking about their definition of asset stripping and stealing the resources and grabbing the profits.

I would like to cite an actual example that I experienced a couple of years ago. I was party to it and was concerned about it, and it throws a little different light on it than what happens when you talk in generalities. This was a specific instance of a plant in a major industrial community in Ontario that had been there for some 40-plus years. It had never taken a nickel out of the plant, never a nickel out of the plant of any kind, including repayments of upwards of close to \$1 million of actual capital dollars, and in profits never had any to speak of, and had kept ploughing dollars back into that plant for 40-some years.

[4:45]

That plant closed down some two or three years ago with approximately 400 to 500 people left unemployed. There was no asset stripping there of any kind. The thing that concerns me—and I'm not trying to get into a debate on the issue but I happened to be there and saw it—is that this owner or the principals wanted to continue because for some reason or other they still had faith and

hope for the future. After 40 years with no profit, they still had faith and hope for it and wanted to continue.

Mr. McClellan: He must have been a magician.

Mr. Shore: That's right. In the meantime, there were people employed there for many years and it was disheartening to see some of them leave their employment. At any rate, whatever the reasons were, since organized labour was involved there, they called the unions together and put the financial statements on the table. They were piled all over the place. They said to them to bring in all the auditors; they wanted to examine them. They said, "here's our problem." They pleaded with them. They said: "We will sink some more dollars into this thing. We have faith and hope." That's what it was—faith and hope.

At any rate, they failed after pleading and appealing. Interestingly enough, many of the individual employees wanted to see it work. I was party to the burial of that business. It was sad for me to see that. All I'm trying to put is a dimension here. It doesn't necessarily mean asset stripping. It doesn't necessarily mean profits pulled out. Here was a case where it didn't happen. It did happen to show, in my judgement, a sincere, albeit maybe naive, effort by an industry and by principals, for whatever reasons there were, wanting to communicate, discuss and negotiate with labour and point out the situation to them on an open basis. They said: "We can't survive any other way. Bear with us and do something involving negotiating contracts and so on." I saw that burial. I saw 400 people unemployed as a result.

Mr. Laughren: Would you permit a question?

Mr. Shore: I'm not the chairman. All I'm saying is that it's a new dimension, a different dimension, and it physically actually happened.

Mr. Laughren: I'll ask it anyway. Are you saying that the labour union would not lower its wage demands despite the fact the company was operating at a marginal level of profit or no profit? Is that what you are telling me?

Mr. Shore: I was brought in as an objective independent person. If you want my opinion as to what happened, yes, that's what happened in this instance.

Mr. Laughren: It would be nice if a company that earned exorbitant profits would

bring the union in and say: "Look, we have got a few extra profits here." What you're doing is the old story of free enterprise for the poor and socialism for the rich.

Mr. Shore: What I'm doing is the same thing you're doing. I'm trying to bring another dimension to a problem. If you want to debate it, I'll be glad to debate it. That's what you have been doing here all afternoon; so I wanted to bring another dimension to it.

Item 1 agreed to.

On item 2, occupational safety:

Mr. Laughren: I want to spend a few moments on the whole occupational health field. I want to tell the minister I'm very nervous about these next six months, and I really mean that. It's a time during which there is going to be a shift in responsibility on occupational health matters, at least in some jurisdictions, from the Ministry of Natural Resources over to the Ministry of Labour. I'm worried, not so much from this minister's point of view or behaviour, but from that of the Ministry of Natural Resources, as to whether or not there will be the same vigour shown in its responsibilities in the next six months, knowing that it's going to shift to the Ministry of Labour under the new division.

I'm concerned about that because, if anything needs to be pursued with continued vigour, it's the whole question of occupational health in the mines, mills and smelters over which the Ministry of Natural Resources has jurisdiction. I just hope the Minister of Labour will be able—and I don't know how you are going to do this, given a separate ministry before the legislation comes in—to work that out with the Ministry of Natural Resources.

I can't imagine it all shifting on one day—the day the bill receives royal assent. Suddenly everything will be in place, the jurisdiction will be in the Ministry of Labour and the programme will just flow on as though nothing had happened. I find it really difficult to understand how you would do that. I'm worried about the next six months or so or whatever length of time it takes to shift it over to the new division.

There are some areas, of course, which are in Labour's jurisdiction now and will continue to be.

By the way, I would appreciate some comments—

Hon. B. Stephenson: Right now? I'd be very happy to comment. May I ask a question?

Mr. Laughren: Yes.

Hon. B. Stephenson: Are you suggesting that our interim bill, The Employees Health and Safety Act, is going to require six months to be passed through the Legislature?

Mr. Laughren: No. What I was suggesting—

Hon. B. Stephenson: It is the intent of the bill that responsibility for part IX and portions of part XI of The Mining Act will be transferred, immediately that bill is enacted, to the Ministry of Labour.

Mr. Laughren: You are talking about Bill 139?

Hon. B. Stephenson: Yes. And that's not a six-month shift.

Mr. Laughren: Okay. I'm—

Hon. B. Stephenson: And with your co-operation it will be a very short period of time.

Mr. Laughren: I can assure you we won't delay it unduly.

Hon. B. Stephenson: What does "unduly" mean?

Mr. Laughren: It depends on the length of time—is it going to committee by the way, a committee outside the House? Have you decided that yet?

Hon. B. Stephenson: I'll let you know that decision when I make it.

Mr. Laughren: You haven't made it yet? Okay. That's interesting.

I'd like to talk a little bit about the areas which are under your jurisdiction. The whole chemical area, the whole petrochemical industry, is one that's bothered me. The logging industry is one which, I think, is going to require—I know it should require—increased attention; and, of course, there's the construction industry and the problems there.

I know that while it may sound simplistic, I look upon the whole occupational health field in Ontario as being at least as much an attitudinal problem as a problem of legislation.

Hon. B. Stephenson: Probably more so.

Mr. Laughren: When we look at occupational health, I think most of us would agree that it should not be something that's negotiated. I suspect the minister would agree to that. As a matter of fact, the min-

ister was upset a year or so ago, perhaps less than that, because she felt that some trade unions were using occupational health as a club during negotiations. Now, that says quite a bit.

Hon. B. Stephenson: That isn't what I said.

Mr. Laughren: That's what you were implying.

Hon. B. Stephenson: That's your interpretation.

Mr. Laughren: It's not only my interpretation. It's lots of people's interpretation. I am sorry that it has become a government problem. While you may think that we as a party are happy with the issue, I can assure you we'd be happier if it had never been an issue. We see it as an engineering problem and that's why I, personally, support occupational health being transferred to Labour as opposed to Health, for example.

There was debate went on, I suspect, in all three parties as to which ministry should assume responsibility for occupational health. My own preference would have been either a separate ministry or a separate institute of occupational health but I see Labour as being certainly an acceptable alternative to what it is now.

When I say that it's an engineering problem what I'm really saying is that the stress must be on the work place rather than on the workers. In the past the stress has been on the workers—finding out what workers were injured and curing them; and the emphasis was on compensation and on industrial diseases and tracking down the workers who were in dangerous situations. I see the whole question as being one of prevention, in other words treating the work place as the problem and not the workers.

Saskatchewan has a really interesting programme, and I suspect the minister knows a little bit about it, in which they've both centralized and decentralized occupational health. They've centralized it, as you're doing in the Ministry of Labour—it's in the Ministry of Labour there as well—and they've decentralized it through the workers' committees—which we are about to do in Ontario as well—and backed it up with government enforcement. We'll have to see in Ontario whether or not that is substantial enough.

In Ontario, we know that in the last few years the government has been unwilling to decentralize responsibility to the work place, in other words to the workers themselves. There's been a tremendous reluctance to do that. We saw the situation at Elliot Lake

—which was not the responsibility of this ministry, I understand that—and the whole problem was revealed in Europe. It was not even revealed in this jurisdiction but revealed in a speech there. That's a problem of elitism and hopefully these workers' committees will go a long way to overcoming that problem.

I want to talk about those workers' committees a little bit later, anyway.

The problem of TLVs, the threshold limit values, is one that bothers me. It bothers me because when we legislate TLVs there's an enormous danger, I believe, of that becoming the minimum standard of substances in the air where the workers are.

Hon. B. Stephenson: Do you mean a fixed standard?

Mr. Laughren: Yes. For example, legislating two fibres per cubic centimeter of asbestos in the air being the standard which all asbestos-related industries must achieve. That bothers me because—I have a conflict with myself here and I confess to it—by establishing a level of two and enforcing it—we see what's happening in United Asbestos near Matachewan right now—they work at it and they can get it down to that and that's an accomplishment. But then you wonder to what extent research will continue once they've reached two when perhaps they should be down to 0.5, which some of us think they probably should be.

I see that as a serious problem in legislating TLVs. I worry about that. I'm just using asbestos as an example but it could be any number of chemicals. Perhaps it's a place to start.

Hon. B. Stephenson: The development of TLVs is an international activity, as you very well know, and research is certainly not going to dissipate or disappear in those areas in which TLVs have been established. The awareness of the problem is something which, I think, will spur further research constantly until we actually eliminate the problems completely or at least minimize them as much as it's possible to do.

Mr. Laughren: Yes, I hope so. There was a case I was reading about in Saskatchewan. I can't remember the exact details of the job but they were using asbestos ribbon to put on a drum. They tested the process and they found out the asbestos levels in the air were about 0.35 fibres per cubic centimetre of air. They looked into it further to see whether or not that could be lowered even more despite the level of the threshold limit value.

They looked at the job; they called in the workers' committee and they discovered that if they did the cutting of the asbestos tape in some other way, they isolated that job itself from where the workers were. They had it as a separate operation where a worker was adequately protected and removed the hazard entirely, even though the threshold limit value was not being exceeded.

That's what I meant. If you go by the TLV strictly, the employer can relax and say, "Everything's just fine. We're at two and we don't need to worry about it." Whereas, if you don't have a TLV but you just say it should be lower, it spurs research, I believe.

Hon. B. Stephenson: Not while the committees are continuing to examine the TLVs and to decide whether that level is adequate or whether it should be lowered.

Mr. Laughren: I'm sorry; I don't understand.

Hon. B. Stephenson: The American Conference of Industrial Hygienists is continually examining the TLVs as they relate to the production of human illness or potential problems. As long as that is still in question—and TLVs are always in question really—then, of course, the engineering activities or the simple decisions about the site in which certain work will take place or the kinds of atmosphere in which it will take place will continue to be examined.

I don't think that establishing an enforceable standard is something which is going to make employers say, "We won't do anything else about this." Not only will such committees as the American Conference be continuing to examine it but groups throughout the world will be continuing to examine it and that information is interchanged regularly. There is no way you can decide that a TLV which is established even as an enforceable standard is something which is set in stone. It has to be continually examined and evaluated and moved when it's proved to be required to be moved.

[5:00]

Mr. Laughren: Sure, I agree, but what is bothering me is that until a recognized body indicates that the levels should be lower it is quite conceivable that nobody will seriously look into alternatives to make it even lower or to isolate the hazard entirely, which they did in that job I described in Saskatchewan.

Perhaps there is no other way at the present than TLVs. The same arguments were used when the whole issue of discrimination against women came up a few years ago,

about the quota system. A lot of people felt very strongly that a quota system was a way to begin to remove discrimination and that you removed the quotas when you had opened the doors. I see TLVs as being not dissimilar in that perhaps it is the beginning to ensure that people get down to an acceptable standard.

Hon. B. Stephenson: I think a good deal depends, too, upon the philosophy of the ministry which is responsible. The philosophy of this ministry is that while we must legislate those standards which are enforceable, which have been accepted by the recognized authorities throughout the world, our major responsibility is to work with both employers and employees to move far beyond simply the state of meeting the standards; to improve the work atmosphere to a level which we can't legislate at this time but which we may eventually be able to legislate.

Mr. Laughren: I hope you are right. I hope it works.

Hon. B. Stephenson: I think it is beginning in some of the areas to work in that way. I think Mr. Hendrickson could probably tell you that in the southwestern Ontario project the activities in this area are paying off. Employers and employees are working together to go beyond our enforceable standards.

Mr. Laughren: What is the southwestern Ontario project?

Hon. B. Stephenson: It is our project of decentralization—

Mr. Laughren: Of the ministry?

Hon. B. Stephenson: Yes—which we talked about last year as a potential and which was established on March 1, 1976.

Mr. Laughren: Last year—How does that relate to the threshold limit values?

Hon. B. Stephenson: Occupational safety has been a part of that project. Our activities in that area have been productive.

Mr. Laughren: I see. The one area I hope the minister will take a particular interest in—and I suspect you will need some pretty sophisticated advice on it—is the whole question of chemicals in the work place. I don't know whether the minister saw the private member's bill the member for Scarborough West introduced, called The Toxic and Hazardous Substances Act?

Hon. B. Stephenson: Yes.

Mr. Laughren: We think that is important. We are aware of the enormity of what that bill entails. What that bill outlines is a mind-boggling task but basically we think that no unknown substance should be introduced into the work place without complete testing and without approval. Great Britain has a bill which is somewhat like that, I believe.

Hon. B. Stephenson: They don't have a programme but they have a bill.

Mr. Laughren: They have a bill which says it cannot be introduced without an indication from the person who is introducing it that he knows how to handle it and has a programme for handling it. That is, at least, the goal.

Hon. B. Stephenson: It is handling rather than testing it.

Mr. Laughren: We think that is going to be very important. The reason I think it is so important is that PVC, the polyvinyl-chloride question, is a good example of if you don't do it before you introduce it how do you do it later? How, at this point, does society say that PVC is dangerous and that therefore we have to stop production of polyvinyl-chloride when we have built a society around plastics?

I am exaggerating but nevertheless once we get locked into something like that it is really too late to turn back the clock. One can deal with the engineering problems now with PVC but even if we know it is dangerous I suspect it is virtually impossible to eliminate it, even if we know that the levels are excessive. I am concerned. That's why I keep going back to the engineering problem because I think that is where we have to put our emphasis.

I know the minister announced the other day that the new assistant deputy minister dealing with occupational health was a doctor of whom I have no knowledge whatsoever. I certainly wish him well in his new job. I hope he does not have a medical view of the problem. In Saskatchewan, when they created the new division, they actually replaced a medical person with someone else because of the problem of a medical person looking upon it as curing the problem rather than preventing it.

Hon. B. Stephenson: If I may reassure the hon. member, the philosophy of Dr. May is that indeed occupational health is primarily an engineering problem and that prevention is the key word. Curing is for some other branch of medicine.

Mr. Laughren: Yes. I hope as well that he is committed to letting those people who have the biggest stake have a major say in the prevention.

I'll tell you what happened just last week. There was an explosion in Sudbury, at a company called Sudbury Metals, which is affiliated to Falconbridge—

Hon. B. Stephenson: It is leased, isn't it? It is not affiliated to Falconbridge. Falconbridge leased the property.

Mr. Laughren: No, you are right; it's Allis-Chalmers. It's affiliated to Allis-Chalmers.

Hon. B. Stephenson: Right.

Mr. Laughren: There was an explosion there and I believe three workers were killed and some others injured and an investigation was going on last week to determine the cause of the accident. There was a structural problem because it literally blew out the side of the building; it was an enormous blast.

The workers wanted to take part in that investigation because they felt they had some contribution to make and they wanted to be part of it yet they were refused the right to take part in that investigation for the inquest purposes. They were refused not by the Ministry of Natural Resources, not by the company, but by the police who said that under The Coroners Act or whatever it was they were gathering information for an inquest and the workers could have no part in that information-gathering process.

I think that is the sort of thing that the new branch will have to look at and say those days are gone when the workers don't know enough to take part in an investigation. Obviously, that is ludicrous. The workers have the most at stake and should be part of any investigation of an accident like that. Yet there they were—it is the carry-over from the past of it being management's prerogative to investigate. You can be sure that management was there in part of the investigation.

Why should management be part of an investigation but not the workers? Somebody is going to have to explain the sanity of that to me. If they want to exclude both perhaps the argument could be made—not well, but perhaps you could make it. How in the world could you make the argument that management should be part of it and not the workers—I suspect you can't make the argument with any logic at all. I am not blaming this ministry—they weren't involved in it—but I think that is the sort of thing that should be brought under its purview.

Hon. B. Stephenson: I would hate to have to correct you but indeed this accident comes under the responsibility of The Industrial Safety Act, but we were not responsible, to my knowledge, for refusing anyone admission. I gather it was the police who did that.

Mr. Laughren: That is correct; it was the police.

Hon. B. Stephenson: At the direction of whom, I don't know.

Mr. Laughren: Okay, then I approached the wrong minister.

Mr. Armstrong: No. We are told it was under The Mining Act.

Hon. B. Stephenson: It was under The Mining Act? Our first information was wrong, then?

Mr. Armstrong: That is right.

Hon. B. Stephenson: It was explained to us that it was our responsibility first because of the fact that this was not a mining operation per se. However, I am informed that that opinion has been changed. I apologize for misleading you.

Mr. Laughren: I know that wasn't deliberate. When it does become your jurisdiction, I would hope you could lean on the powers that be to convince them that the workers should have a say there. It will involve another ministry but so what? I see no reason—

Hon. B. Stephenson: You will recall that our proposed bill provides for worker participation and investigation, particularly of fatalities.

Mr. Laughren: I hope there won't be much delay. It would have been nice to have them in this particular case.

Hon. B. Stephenson: I am encouraged to hear that.

Mr. Laughren: You need not worry about us delaying the passage of that bill. I am sure there will be the odd amendment but I am sure you won't delay the amendments either.

Hon. B. Stephenson: How long?

Mr. Laughren: I wonder if I could talk to the minister about some specifics for a few moments and get some response. The member for Scarborough West (Mr. Lewis) raised the problem of what's known as TDI the other day. It originally came out of a report from Great Britain which indicated that the chemi-

cal TDI safety limit of 0.02 parts per million in the air offers no protection to susceptible people and may be at least 20 times too high. I wonder if the ministry is starting to get involved in those kinds of issues and assemble information or whether you are waiting?

Hon. B. Stephenson: We are aware that OSHA has been examining the problem of TDI, if you like, and has recommended recently that the level which is presently set in Great Britain, which is 20 parts per billion and which is exactly the same as ours, may be too high. The American Conference of Industrial Hygienists has not as yet accepted this. The course is usually the other way around—the conference recommends and OSHA accepts—but OSHA has apparently made this recommendation this time or has established that as its level. That doesn't mean it's in effect anywhere at the moment. It's simply an OSHA recommendation.

The studies which have been published in Great Britain have to do with a number of firemen; they were published in September of this year. There were two of them, as a matter of fact, and there are certain people who are susceptible to this much more so than others.

We will be examining the recommendation of OSHA and the background information which they have used to reach this decision. We will also be in contact with the American Conference to find out what they believe about it. It's only one of a number of similar substances.

Mr. Laughren: I don't expect an answer at this time but I wonder if I could mention a couple of other things, partly precipitated by a visit the member for Dovercourt (Mr. Lupusella) and I had underground at International Nickel last week. There were a couple of things that came to mind and I wonder if the ministry could at least be made aware of them now and provide us with an answer at the appropriate time.

One is the whole question of measuring diesel exhaust in enclosed areas, keeping in mind how enclosed it is underground, and in particular the carcinogenic materials in the exhaust and what implication that has for the miners.

Secondly, what is the result of the gas from the explosive that is used? As you may know it is Amex which is used for blasting underground.

Hon. B. Stephenson: You are worried about the contents of this and the gaseous vapour?

Mr. Laughren: I'm worried about the content of the gas after the explosion has taken place, because it's just a dry powder that's put in the drill hole. I think there are a couple of carcinogenic materials, from the little bit of research I was able to do. One is polycyclade and the other is hydrocarbons, as a result of the blast. There is also, benzpyrene; I'm worried about those.

When we were there, by the way, there had been a small spill; a handful of Amex had spilled on a rock and that creates ammonia, it reacts with the calcium in the rock and creates ammonia. There was a sense of lack of air because of the strong aroma of ammonia. I wonder what that does to the quality of air underground as well when the worker is not breathing oxygen as much as he is ammonia.

As I say, I don't expect an answer on the spot on that one.

Then there's the whole question of drycleaning establishments. I worry about those. They're very hard to monitor, I suspect, because there are so many small drycleaning establishments all over Ontario. Yet I believe there are carcinogenic substances in the air as a result of the drycleaning process. I wonder about—

[5:15]

Hon. B. Stephenson: Some of those have already been looked at, I know, but I am not sure of the content.

Mr. Laughren: The other thing is Sarnia; I wonder whether or not one of the first tasks of the new branch shouldn't be to strike a task force and spend some time in Sarnia. I'm worried about the time interval, too. I believe that petrochemical industry was built up shortly after the war primarily, so we're talking about 30 years that they've been in existence. The last thing I wanted to do is suggest that there's any kind of serious problem—I don't know—or to get speculation going about problems there, but I do have many fears about what's going to happen there; what could be the result of that chemical industry.

Hon. B. Stephenson: You are talking about the environmental area?

Mr. Laughren: Yes, I am. The workers—

Hon. B. Stephenson: In-plant?

Mr. Laughren: In-plant is what I was actually concerned about. I suppose, if it's in-plant problems, it could also be in the community as well. I would think that would

warrant some kind of task force to spend some time and do some sophisticated measuring. Okay?

Another one is the whole question of logging. This has come up a couple of times, partly because of some comments in the Ham commission report about safety in the woods industry as a whole. There's quite a bit of logging and milling in the riding I represent, in the small communities, and I've been struck a number of times by the number of missing fingers in Nickel Belt. I'm sure that's true in all logging communities and I suspect it's a pretty high rate. I'm wondering whether or not there's been sufficient investigation and enforcement of safety in the logging industry. Also, of course, there is the question of sawdust in the lungs—I believe there's a carcinogenic effect from sawdust.

On October 20, I received a letter from the minister. I had written to her asking her to investigate working conditions at a mill in Missinaibi, in the area where I am, and a reply came back:

"It was last inspected on March 17, 1976, and directions were left under The Industrial Safety Act, 1971, to correct certain unsafe conditions. On April 2, 1976, we were notified by Mr. Manton [who's the manager] that all of these directions have been completed. This mill is due for a regular inspection within the next two weeks."

I wonder if the minister could table, or make available at least, the details of the inspection on March 17, the directions that were left with the mill and the results of the last inspection. It said "within the next two weeks" so I assume it's been done now.

Hon. B. Stephenson: We can undertake to have the information for you by this evening.

Mr. Laughren: Okay. Thank you.

Hon. B. Stephenson: You may not get it until tomorrow.

Mr. Laughren: We'll still be here tomorrow on this. Thank you.

One of the other questions about the woods industry is the whole question of workers who use chain saws. The minister may have seen the article in the Toronto Star on loggers' accidents which cost Ontario \$9 million a year. It's a strange way to word a headline but I guess the media have their reasons. In it they refer to the whole problem of Raynaud's white hands disease, as it's called, from the vibrations. I think drillers get it, as you probably know; they call it

white hands because it's a circulatory problem. That may be prevalent in the woods industry as well so I think that's something else which should be investigated.

Also, I noticed in a letter from my colleague the member for Fort William (Mr. Angus) that because of the amount of logging that's done in the Thunder Bay area—I'm sorry, this may be grain dust; yes, it's grain dust. This is from the member for Fort William who says, in his letter to the Minister of the Environment (Mr. Kerr):

"A recent report by the Thunder Bay District Health Council indicated that there were twice as many admissions to Thunder Bay hospitals for respiratory infections as there were for the rest of the province. In addition, the death rate for males and females in Thunder Bay district in 1973 was 30 per cent higher than the provincial average."

He mentions that he had written to you.

Hon. B. Stephenson: Deaths from what?

Mr. Laughren: Deaths from respiratory diseases—due to acute respiratory infections. I'm wondering whether any ministry of government—to my knowledge, there's no indication that anything's been done. It was in the summer that this exchange of correspondence took place and there were copies to you as well. On August 27, there was a letter to you.

It seems to me that's another area the ministry should be looking at, the whole question of grain dust.

An area that's near and dear to me is the whole question of dust in mines. I won't get into that in much detail because I know the chairman would cast a steely-eyed glare at me and rule me out of order but I would mention one thing and that's a mineral called talc. There are two kinds of talc: One contains silica and the other does not. The talc that contains silica does cause respiratory problems, at least it seems so from the research, the reading, that I've done.

I'm wondering whether or not the minister is aware of that. There is a talc mine near where I live and I'd be interested in knowing whether or not there is silica in that talc. It's right next door to an asbestos mine which was closed and it's not unusual to have asbestos and talc, I understand, in the same vicinity. I worry about the silica content of that talc because it could be quite serious.

The other chemical that I wonder if the minister would look at is something called trichlorethylene, which is a widely used industrial chemical. It's the kind of chemical

which was introduced, like many other chemicals, without proper testing. The National Cancer Institute has done testing on it with rats and mice and the result has not been reassuring. I wonder if the minister could include that in the list of chemicals to check.

Hon. B. Stephenson: There's a TLV for trichlorethylene.

Mr. Laughren: Yes, there is. I think it's 100 parts per million but the question is whether or not this is low enough.

The other thing that I wonder—I wish I hadn't got off the lumber.

Hon. B. Stephenson: The TLV is 100 parts per million, right.

Mr. Laughren: Yes. The other thing I wonder is if the minister would consider, when she dispatches the task force to Sarnia, also dispatching one to the lumbering industry to do some checking on that; to determine whether or not training is adequate for people in the woods industries.

If she will look at the productivity figures in the lumbering industry, I think she would be startled to note the dramatic increase in productivity in lumbering over the last few years. It really is dramatic and I suspect it's primarily because of the tremendous machines they now use in that industry. I wonder whether or not there's been a corresponding increase in training for people who work in the industry to go along with its increased mechanization. I think that's something which needs to be looked at.

In the mines now, they're getting into an apprenticeship programme for miners because they recognize that a lot of the people who get into accidents in the industry are people with very low seniority, and they are very often very young people as well. I think that should be looked into.

Anyway, I think we are into a new era in occupational health and safety. I hope that's the case.

I think many people wonder about the mining industry. They don't express it that way; they say people don't want to work any more, that there's a different work ethic now. It's not the same work ethic that it used to be. I ask you some day to ask the management of the mines whether or not they want their offspring to go underground at Elliot Lake or to work in an asbestos mill. If they're honest most of them would say no.

I think people have increased expectations now as far as their jobs are concerned and the kind of protection they expect to receive.

There are some jobs which simply are no longer acceptable to workers. I'm surprised the asbestos industry and the uranium industry get workers as well as they do because of the dangers there and the publicity given to them. I think there needs to be a new approach to workers who suffer because of poor occupational health standards in the past.

I'll give you an example. You may know that at one time there was a sintering plant in Sudbury which sintered the nickel. There has been a very high incidence of cancer among workers at that sintering plant. I think that what needs to be done, when it is shown that a number of workers—I'm talking about a statistically significant number—can be proved to have been exposed to hazardous working conditions, is that they be regarded differently in a couple of areas—one, their pension; and, two, their seniority, which are obviously related.

For example, should every sintering plant worker be given time and a half for all the time he's spent in that plant? Should he be entitled to a full pension earlier than if he had not worked in the sintering plant? If someone has 20 years in the sintering plant should he be given 30 years seniority for the calculation of pension? I think that's something the ministry should look at because of the hazards of that particular occupation. What good is the pension if the person gets cancer, for example? I'm just using the sintering plant as an example. I think there are other areas as well.

In the smelter in Sudbury, it's statistically significant that the workers suffer from chronic bronchitis. That's another area where this kind of rule could apply.

I'm sure the employers in the province would complain about that, but surely it would be one way of encouraging employers to make sure they did everything possible to make the work place safer. I think that's something which should be considered.

There are other areas which bother me and this ministry is involved in at least one of them, which is the whole question of the ruling on stomach cancer. The board indicated, and the minister concurred, that if there had been at least 20 years—

Hon. B. Stephenson: A 20-year interval.

Mr. Laughren: —interval the workers would be considered compensable under The Workmen's Compensation Act. That just seems arbitrary. Have we really got cancer nailed down to the extent we can say that 20 years is the right length of time? I really doubt

that, when such a difference can occur among workers in the amount of exposure to a carcinogenic substance. How can you say it is 20 years? I also suspect that some people are more susceptible than others—I am sure that must be true—to carcinogenic materials.

[5:30]

To lay this 20-year rule down as cast in stone, I really find it difficult to accept. I think Dr. Selikoff agrees with that 20-year period, so I know I am a layman baulking at the medical profession but so what? I really am uneasy about that 20-year period.

I think the minister has acknowledged this same principle with the difference between Sudbury and Port Colborne workers in the refinery—smelter or refinery?—anyway in the operations at International Nickel. I think that was an indication that the authorities recognized the difference in the degree of exposure because one was much dirtier than the other, more hazardous than the other.

How can you, in one case, say there is a 100 per cent difference in the length of time you will accept and, in another case, establish a blanket period of time of 20 years? I detect a contradiction there. I am concerned that you, the powers that be, are being arbitrary in that respect.

I won't go on much longer but I would like to make a few suggestions. I think Ontario has a unique opportunity now to lead the way in occupational health. I would like to see a programme in at least one university which would train occupational health specialists. To my knowledge there isn't one—where?

Hon. B. Stephenson: Toronto and McMaster.

Mr. Laughren: What kind of programme is it, though? To what extent is it a full-fledged programme? Is it a school of occupational health?

Hon. B. Stephenson: No, it is a division of the—

Mr. Laughren: That is what I mean. I don't think we have nearly enough. What I am suggesting is that we could have a school of occupational hygiene and I suspect, if we went about it properly, there would be funds from the federal government.

Hon. B. Stephenson: I wouldn't count on that if I were you.

Mr. Laughren: I think on an issue like that we probably could. I suspect that other prov-

inces would be very interested in what we did in that field if we were to establish a school, a major school, at one of the universities. I think in the years to come that would be something we could be very proud of if we were to do it.

I think now we don't have the people to carry out a proper programme of preventive occupational health in the province of Ontario and I worry about that. I think you have talked in the past about an institute of occupational health. I would appreciate a comment from you as to where that is now and how it relates to the new branch.

Hon. B. Stephenson: It is in the process of development and its relationship to the occupational health authority is being considered seriously by a committee and by the new ADM in charge of that authority.

Mr. Laughren: I sure wish I knew what "process of development" meant.

Hon. B. Stephenson: If you are looking for a stone and mortar building, you are not going to find it.

Mr. Laughren: No. Is it going to operate under the jurisdiction of the new branch?

Hon. B. Stephenson: Under the jurisdiction—related directly to the jurisdiction of the new branch, yes.

Mr. Laughren: Is it going to operate as a section of government or is it going to be at a university? I don't understand what you intend to do with this. How do you intend to structure it?

Hon. B. Stephenson: When we have the structure finalized I will be very pleased to tell you what it is.

Mr. Laughren: You haven't reached that stage yet?

Hon. B. Stephenson: No, it is not finalized as yet. The objectives and some of the role of the institute have been, I think, fairly well defined but the exact structure and its relationships throughout are not finalized as yet.

Mr. Laughren: When you do something like this, are you breaking new ground or is there a model to which you can look for guidance?

Hon. B. Stephenson: No, not a direct model. There is not a model which we could copy completely.

Mr. Laughren: Which jurisdiction has one now?

Hon. B. Stephenson: An institute of occupational health?

Mr. Laughren: Yes.

Hon. B. Stephenson: There are several, as a matter of fact, throughout the world.

Mr. Laughren: I know the United States has—

Hon. B. Stephenson: Has one, yes; but they don't relate specifically to the kind of structure which we will have within the Ministry of Labour. We want to make sure it is relevant and that it carries out its mandate on the basis of the proper priorities in occupational health, not launching off into areas of basic research, for example, which may benefit somebody 50 years from now but which aren't going to solve the problems which we have to have solved now.

Mr. Laughren: When do you envisage this as being something we can identify?

Hon. B. Stephenson: I would hope that by the first of the year we will be able to clarify it really well for you.

Mr. Laughren: By the first of the year? Okay. As you proceed with this new branch and so forth, how is the Workmen's Compensation Board going to fit into the grand scheme of things? Will it remain more or less untouched?

Hon. B. Stephenson: I doubt that it can remain untouched.

Mr. Laughren: Untampered with? Why are you smiling? Are you going to give it a kick in the head?

Hon. B. Stephenson: It has not remained untampered with during the past year, for one thing; and secondly, it can scarcely be untouched by the initiatives which are being developed in the area of occupational health and safety.

Mr. Laughren: I know this isn't the place to debate the Compensation Board—

Hon. B. Stephenson: You are right.

Mr. Laughren: —but I want to tell you something. That place is eventually going to drive me out of politics, you will be reassured to know.

Hon. B. Stephenson: You don't want my comment about that, do you?

Mr. Gaunt: We will have to get Colonel Legge back.

Mr. Laughren: That is all there is to it. I will give you an example—

Hon. B. Stephenson: You have demoted him, he's a Brigadier.

Mr. Gaunt: Brigadier; sorry.

Mr. Laughren: I will give you an example of something which had to do with woods industry. A woman was inspecting a conveyor belt going by with lumber on it; she was an inspector. There was a board sticking out further than it should have and she had to wrench it off and throw it over to a pile. As she did so she hurt her shoulder, which she had already hurt in a compensable accident a couple of years previously. When she did this she really hurt her arm and her shoulder but although it bothered her—I think it was on a Friday—she finished the job.

It bothered her all weekend but not to the point where she went to a hospital or anything like that, but it bothered her. She went into work on Monday and tried to do the job but couldn't do it so she went off the job and then reported it to her employer. Then the whole process started with the Compensation Board and the Compensation Board wrote back—I will only read you one sentence:

"Dear Mrs. LaPierre,

"I have received your initial report of accident, but it does not accurately describe the mechanics you went through when your accident occurred."

Just an outright statement that she did not describe accurately what had occurred. There is only one way the Compensation Board or the claims adjudicator would know that and that is because he checked with the employer and the employer gave a different story.

There you have the adjudicator at the board getting two different stories, one from the employer and one from the employee. What does he do? He writes to the employee and says, "It does not accurately describe the mechanics you went through." Obviously he is taking one side or taking the word of the employer and telling the employee she is wrong and that is the kind of attitude which really bothers me.

The other thing about the board ties in with the whole occupational health programme and the committees which are going to be set up, the safety committees. I was reading the Ham commission report and damned if I didn't find in there—first of all let me give you a little bit of background.

Over the past couple of years, we've complained about the Compensation Board not

taking an active role in the Elliot Lake situation, for example. All the claims were coming through the board and they were just processing them on to the Ministry of Health and never doing anything about it. They threw up their hands and said, "Well, that's not our job. We're here to process accident claims, that's what we're here for. The occupational health branch is supposed to look after the follow-up and all that sort of problem. Don't bother us about that," they said in effect.

Then I read in the Ham commission report—I was really surprised to see this and I guess it was a lesson to me to read the Acts more carefully, but that's such an excruciatingly painful process:

"The Workmen's Compensation Act contains provision for the board to invoke the formation of safety committees for accident prevention in companies with adverse injury experience, although to the commission's knowledge the board has not exercised this right."

[That's on page 156 of the Ham commission report so I dug out The Workmen's Compensation Act and, sure enough, there it is in section 86, subsection 7:

"Where the work injury frequency and the accident cost of the employer are consistently higher than that of the average in the industry in which he is engaged the board, as provided by the regulations, may increase the assessment for that employer by such a percentage thereof as the board considers just and may assess and levy the same upon the employer and may require the employer to establish one or more safety committees at plant level."

There was the Compensation Board with that kind of authority to require the employers to do that and, over the years, there they were throwing up their hands and saying, "That's not our responsibility. Our responsibility is merely to process the claims." It's that kind of attitude that makes us so terribly angry with the Compensation Board.

They really have copped out on the whole question of occupational health and I was very serious when I asked you how you see the Compensation Board fitting in. If we still end up with two solitudes, with occupational health here and the Workmen's Compensation Board processing injuries over here, we are not going to be able to tie together prevention and compensation. The board has just—what's the right term?—become ossified. Does that mean turned to stone?

Hon. B. Stephenson: No, it means turned to bone.

Mr. Laughren: Turned to bone? Well that's not bad, I'll take it.

Hon. B. Stephenson: Petrified is stone.

Mr. Laughren: Yes. I think the board has to be dealt with; it cannot be allowed to go on—I'm not suggesting we appoint another commission to change the filing system from horizontal to vertical which happened the last time. Then they felt they immediately had to move into a tall building. I don't want to suggest that you do something like that again.

I guess if I was to pursue the argument, which I certainly won't, I would have to say to you that inevitably you are going to come to the conclusion that a comprehensive social insurance scheme is the way you simply must go—that we as a province must go—such as there is in New Zealand. You may or may not have seen a report of the sickness and accident insurance committee in Saskatchewan—it's just out; that is the route which I suggest to you we must go in the future in Ontario.

I think that right now we should concentrate on the occupational health branch but I really think that is the direction we must go. New Zealand has had it now for a number of years.

The other thing that—

Hon. B. Stephenson: It's not a number of years.

Mr. Laughren: Saskatchewan? Oh, yes.

Hon. B. Stephenson: No, the New Zealand programme. You said New Zealand has had it for a number of years.

Mr. Laughren: Yes, 1972, I think, wasn't it? About 1972? Yes, and they have had amendments to it.

Hon. B. Stephenson: It took them 18 months to implement the Act once it was passed and I think it was 1973 or 1974.

Mr. Laughren: I remember getting into this disagreement with you in previous estimates. What happened there was they brought it in and then they brought in amendments to include auto insurance and so forth. Anyway, that's the way we should go.

[5:45]

I would also suggest to the minister in all humility that remarks she made to the ladies' luncheon at the Western Fair really don't add very much to the debate on occupational health.

She said, talking about occupational health:

"To partisan critics who, with crocodile tears and counterfeit righteous indignation, wax dramatically eloquent, who mislead, misquote and misinterpret the facts, I say act responsibly."

I wish I'd been in the audience. I think you should be required to back up what you say when you make accusations like that. I guess it's pretty easy at the Western Fair to get away with rhetoric like that without backing it up but I think that in all fairness you shouldn't be so provocative. Perhaps you had a willing audience at the Western Fair; I'm not sure who goes to the Western Fair and listens to the Minister of Labour speak. That's not being responsible in itself; it's not a responsible act.

Mr. Wildman: She wouldn't have said that at the Massey Fair.

Mr. Laughren: No, that's right. You could only say that at the Western Fair.

To get back to occupational health, I would remind the minister that occupational health has become a political issue only because of negligence. It's not because we created it or trade union organizations created it; it's because there was negligence. We'd be delighted if the Minister of Labour, with the new branch, would take the issue entirely away from us and take the wind out of our sails entirely on all matters dealing with occupational health. I would urge you to do that. I would urge you to act with as much dispatch as possible. I would urge you to be tough, unrelenting, not to worry about offending the employers in the province—they've had their way long enough—and slowly, but not too slowly, and inexorably move toward the comprehensive social insurance scheme.

Hon. B. Stephenson: Mr. Chairman, I am very pleased to note that the members of the caucus are so staunch in their defence of their leader. I applaud you for supporting—

Mr. Laughren: Easy task.

Hon. B. Stephenson: —his obvious lack of capability of defending himself at this point in time.

Mr. Laughren: Now you're getting silly.

Hon. B. Stephenson: No. I do wish that—

Mr. Wildman: He can't defend himself when he's not here.

Mr. Chairman: Order, please.

Hon. B. Stephenson: —on at least two occasions on which peculiar comments were

made about remarks I had made, he'd gone on a little further in the remarks.

Mr. Laughren: I'd be glad to.

Hon. B. Stephenson: As a matter of fact, I think he must have, as far as it concerns the speech at Kitchener, which he objected to so strenuously. His proposed legislation regarding the introduction of chemicals follows directly the suggestions I made during my remarks to the group in Kitchener—that is, that it is the responsibility of introducers of chemicals to test them before they come into widespread use.

Mr. Wildman: I think you got that from Dr. Irving Selikoff.

Hon. B. Stephenson: Fine; I'm glad that Dr. Selikoff and I agree about it.

Mr. Wildman: We're happy that you're interested in doing the same thing.

Hon. B. Stephenson: My interest has been of very long standing. As I said before, in response to this kind of remark, I really feel very strongly that there was no one single group responsible for increasing activity and interest in the area of occupational health. A very large number of dedicated people have been very concerned about it. It is neither partisan nor does it lend itself to partisan activities and if we're really going to make progress, we do need to have a co-operative programme which is going to be of assistance to everyone, particularly the workers who are exposed.

There were a couple of things I thought I should mention in that very long list of suggestions and questions you put forward. I think you should know that the Advisory Committee on Occupational and Environmental Health under Dr. Roche Robertson is already studying the problem of grain dust. That's an area which has been of real concern to us. The logging statistics which are included in Dr. Ham's report—as you know, he has modified them because he was in error.

Mr. Laughren: But it's still bad.

Hon. B. Stephenson: The improvement has really been fairly dramatic in the last two or three years, I think, and it's something which we expect will continue.

The lag time regarding asbestos and stomach cancer is something which has been established epidemiologically by a group of very well-qualified scientists. You question whether this is valid or not. Those scientists will also tell you that they cannot directly relate exposure to asbestos as the only causative agent

in the development of stomach cancer. This is, at this point in time, the guideline which should be used on the basis of all the epidemiological information we have.

When that changes as a result of ongoing studies that time lag may change as well; I don't know that. Certainly the experts who have been involved in this have agreed that this is so and we, having no omniscience, must at least listen to the guidance which the experts provide for us. There is a large number of them involved in examining this right now.

The other questions which you've raised we shall attempt to consider or to find answers for in the specific areas you requested.

Mr. Laughren: I indicated that I was uneasy about my own feelings—I had nothing to back them up in a scientific way—but I am hopeful, with your assurances and the board's assurances, that for example in the case of doubt, the benefit of the decision will go to the worker. I've never felt that way, and I've appealed many cases to the Compensation Board in five years. It's the kind of thing which makes me uneasy when I see these figures being laid down fairly hard and fast, such as the 20 years.

Hon. B. Stephenson: There are a number of medical problems which are multi-causal in origin and it's extremely difficult to establish specific guidelines to relate directly to them. One can't do it prospectively at this time; one must do it retrospectively with the information that's available.

The scarcity of occupational health personnel is something which is world-wide, as I'm sure you're aware. It is one of the things which trouble us a great deal and one of the activities which the programme will encompass would be some stimulus, some encouragement and, hopefully, some mechanism for increasing the numbers of trained personnel available to provide the programmes.

Mr. Laughren: I understand the problems, in a time of government restraint, about initiating new programmes. What is your reaction to the suggestion that there be a school of occupational hygiene at one of the universities?

Hon. B. Stephenson: If I might say, I think we have to walk before we run. I think the concept which is being introduced, particularly at McMaster, of the division of occupational health and safety being a multi-disciplinary approach—that is, it will involve engineers as well as physicians, nurses and

hygienists, a number of groups—is probably the best route to go at the moment. I'm not saying it's going to be the right route but I think it's probably the best route to go until we have developed, first, the numbers of specialists in all of the disciplines capable of teaching other groups; then it might be possible to consider the development of a separate institute, if you like, or a separate school. At the moment I think it should be related to those specific disciplines within the university setting which can provide both background information, factual information and teachers.

Mr. Laughren: Yes. I could see a situation in which you had a school of occupational hygiene and the community colleges with their paramedical training, the paramedical people; it would be a nice combination.

Hon. B. Stephenson: We've already made a slight venture in that direction, as you know.

Mr. Laughren: That's at Humber College, I think.

Hon. B. Stephenson: Hopefully, it's to be expanded in other areas as well.

Mr. Laughren: In Sudbury we have both a university and a community college and it would be an ideal place to implement such a major programme.

Mr. di Santo: I'd like to pursue the question I asked you today about the pilot project in Italian for Italian workers in construction. How long did the project last? You said today that the results have not been tabulated yet.

Hon. B. Stephenson: How many months was it altogether?

Mr. Hushion: It was about two years. I think it was first initiated about two years ago. I think it was December, 1974. Is that correct?

Mr. Trelford: I am not exactly sure of the answer to that question.

Mr. Hushion: I guess when the project was first initiated, or was first discussed, goes back about two years.

Mr. di Santo: And it lasted until when?

Mr. Hushion: It's still proceeding.

Mr. di Santo: It's still proceeding? Thank you. I didn't know it was still proceeding because—

Hon. B. Stephenson: Oh, yes.

Mr. di Santo: —I haven't seen any activity, especially in the media. I think it was one of those projects which are mostly media oriented.

Can you tell us if there were any positive results? The project was supposed to attract the attention of the workers and if they thought there was a danger or the safety instructions were not followed by the company they should get in touch with that specific office or that specific telephone number. Am I right?

How many phone calls did you have and what was the content of the phone calls?

Hon. B. Stephenson: As I'm sure you're aware, the phone calls were not all related to safety within the work place. The phone calls were related to a number of issues and the vast majority of phone calls were about unemployment insurance, weren't they?

Mr. Hushion: That's right.

Hon. B. Stephenson: There were very few questions raised about the functions of the Ministry of Labour or about job or work place safety. It obviously did identify a telephone number which could be used by the Italian-speaking community in order to get answers about questions related to jobs.

Mr. Hushion: It's still in operation.

Mr. di Santo: That's really interesting. Are you suggesting that the pretty heavy media campaign was unable to convince the workers interested of the specific purpose of this project. If they phoned in not about problems related to safety but other problems, was there a gap in understanding or communication at some point?

Hon. B. Stephenson: I don't know whether it could be considered to be a communications gap. It was obvious that it filled a need which had not been filled before and continues to do so in that it provides an identifiable phone number for information for Italian-speaking workers.

It perhaps does indicate, although you might not wish to admit it, that there is less possibility of the Italian-speaking workers not reporting their concerns about job safety directly to the ministry than we had anticipated there might be. We felt that perhaps the language barrier and the lack of knowledge about the individual's right and responsibility to do this might be an in-

hibiting factor and we attempted to remove that inhibiting factor.

Mr. di Santo: I certainly share your concern on this problem but if the main concern was related to the safety aspect and the language problem, have you tried to do something to change the pattern of the phone calls coming in?

Hon. B. Stephenson: No, I don't think we've tried to change the pattern because it's obvious from the numbers which are received today, from the kinds of inquiries that are met and answered and from the fact that we are now able to provide those callers with almost one-stop answers to their questions that it is providing a useful service to the community in this area.

Mr. di Santo: In other words, you are providing a useful service but not strictly related to job safety.

Hon. B. Stephenson: It's not strictly related to job safety, although we started it for that specific reason. It has modified itself as a result of the concerns of the individuals involved.

[6:00]

Mr. di Santo: I see. Was there any charge laid as a result of the phone calls? Any charges or charge, whatever the case may be, against employers who—

Hon. B. Stephenson: Do you mean a charge, or do you mean were investigations carried out as a result—

Mr. di Santo: Or investigations.

Hon. B. Stephenson: Yes.

Mr. di Santo: Do you have any figure to give to the committee?

Hon. B. Stephenson: Whether there were charges laid as a result of those investigations I don't know at the moment. None? Do you know how many investigations were carried out as a result of it?

Mr. Cleverdon: Could I speak to this?

Hon. B. Stephenson: Yes.

Mr. Cleverdon: We were surprised to find that we had very few calls of a construction safety complaint nature. They were, by and large, on other areas of government concern. There were very few indeed. I've got some feedback on the reasons for it.

The Italian-speaking employers told their employees "Please don't call that number.

Tell us first and we'll do it for you and fix it up." So it had a very positive effect. It's still answered, by the way, in the daytime by a young Italian-speaking girl; there are three who can take the calls. After hours, it's answered by a message. It says, "Get somebody with you who can speak English and call the Queen's Park switchboard and we'll get help to you."

Every complaint was investigated. I know of none that resulted in a prosecution di-

rectly but some may have; we don't keep track of it in that fashion.

Mr. Chairman: It's now 6 o'clock and it's just been brought to my attention that the House is not meeting tonight. The dining room is closed. Is the committee willing to carry on at 8 o'clock as scheduled? Then I'll leave the chair and we'll resume at 8 p.m.

The committee recessed at 6:01 p.m.

CONTENTS

Tuesday, November 9, 1976

Women's programme	S-2937
Women Crown employees office	S-2937
Women's bureau	S-2939
Labour services programme	S-2943
Programme administration	S-2943
Occupational safety	S-2953
Recess	S-2967

SPEAKERS IN THIS ISSUE

Bryden, M. (Beaches-Woodbine NDP)
 di Santo, O. (Downsview NDP)
 Gaunt, M. (Huron-Bruce L)
 Godfrey, C. (Durham West NDP)
 Johnson, J.; Vice-Chairman (Wellington-Dufferin-Peel PC)
 Laughren, F. (Nickel Belt NDP)
 Mancini, R. (Essex South L)
 McClellan, R. (Bellwoods NDP)
 McNeil, R. K.; Chairman (Elgin PC)
 Ruston, R. F. (Essex North L)
 Sandeman, G. (Peterborough NDP)
 Shore, M. (London North PC)
 Stephenson, Hon. B.; Minister of Labour (York Mills PC)
 Wildman, B. (Algoma NDP)
 Williams, J. (Oriole PC)

Ministry of Labour officials taking part:

Armstrong, T. E., Deputy Minister
 Clarke, M., Director, Women's Bureau
 Cleverdon, R. K., Director, Occupational Safety Branch, Labour Services Division
 Eastham, K., Director, Women Crown Employees Office
 Hushion, D. E., Executive Director, Labour Services Division
 Scott, J., Director, Employment Standards Branch, Labour Services Division
 Trelford, E. L., Senior Communications Adviser, Staff Branch, Labour Services Division



Government
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Legislature of Ontario Debates

SUPPLY COMMITTEE—2

**ESTIMATES, MINISTRY OF
THE ATTORNEY GENERAL**

OFFICIAL REPORT — DAILY EDITION

Third Session of the 30th Parliament

Tuesday, November 9, 1976

Speaker: Honourable Russell Daniel Rowe

Clerk: Roderick Lewis, QC

**THE QUEEN'S PRINTER
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CONTENTS

A list of the speakers taking part in the debates in this issue of Hansard appears, in alphabetical order, at the back of this issue.

Daily contents of proceedings also appears at the back of this issue. Reference to a cumulative index of previous issues can be obtained by calling the Hansard Reporting Service indexing staff. (Phone 965-2159)

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LEGISLATURE OF ONTARIO

SUPPLY COMMITTEE

TUESDAY, NOVEMBER 9, 1976

The committee met at 3:20 p.m.

ESTIMATES, MINISTRY OF THE ATTORNEY GENERAL

(continued)

On vote 2701, administrative tribunals programme; items 1 to 5, assessment review court, Board of Negotiation, Criminal Injuries Compensation Board, Land Compensation Board and Ontario Municipal Board.

Mr. Lawlor: On the assessment review board—I have nothing to say!

Mr. Roy: Mr. Chairman, if I may just make a few comments. I think I'm in the right vote dealing with the administrative tribunals in talking about the statutory powers procedure rules committee, which is involved with the rules and procedures of certain of these administrative tribunals.

I notice from reading this report that Mr. Callaghan, the deputy minister, is the chairman of this committee. On reading the report there certainly appears to be certain problems that the committee is experiencing. In fact, the problems seem to be such, I suggest to you, Mr. Chairman, that the function of the committee, because of its being on a part-time basis, maybe its resources are being cramped to a degree where the intent of the whole committee is being questioned.

I read here, for instance, that the purpose of setting up this committee was to look at the rules and the practice and procedure to govern the proceedings in statutory tribunals, and to keep under continuous review the procedure of tribunals and certain other bodies specified in the Act. I recall at the time that the Premier (Mr. Davis) introduced the legislation for this he stated that: "While the committee will not make the rules for the individual tribunals, every tribunal will have to consult with the committee before introducing or amending its rules of procedure."

In fact, he did put that into legislation. Under the legislation, section 28 of the rules state that: "No rules of procedure to govern

the proceedings of the tribunal to which part I applies shall be made or approved except after consultation with the committee."

Having said this, the chairman of the committee talked about some of the difficulties that the committee is experiencing. He says here—and I quote—at page 9 he states: "It was not possible initially to communicate with all the tribunals directly. There may be as many as 300 to 500 or more bodies under our jurisdiction and as yet we have no comprehensive inventory listing, classifying and locating them, although we are compiling one."

And I notice that, as we read along, that is one of the things that you want to do, but the chairman goes on to state that: "As the existence of the work of the committee becomes better known we shall witness an increasing demand upon its resources. At the present all members of the committee and its secretary and assistant secretary are available on a part-time basis only. We propose a permanent secretariat be established in the future, in order that the committee may possess capability to maintain under continuous review the practice and procedure of the hundreds of bodies under its jurisdiction, and in order that it may perform adequately other related tasks."

One of the things they are proposing is an inventory, at least, of these tribunals. As far as I could see, in looking at the report itself, it states that: "As at the date of this report, five sets of rules or amendments to the rules have been submitted to the committee. Appendix B is a summary of our comments for those making a submission."

The point appears to be very clear that the whole purpose or at least the function of the committee seems to be cramped because of the lack of resources. Secondly, how can that committee, for instance, fulfil its role as set out in the legislation and more specifically in section 28, when we don't even have an inventory of all the 500 or more bodies that are in existence?

To be more specific, I think the chairman of the committee and the minister may well

agree that the whole function or effectiveness of this Statutory Powers Procedure Rules Committee has to be questioned. It would be very difficult if we don't even have an inventory of all the bodies that are supposed to be reporting to it. How can we keep track of all the rules and procedures that are being enacted by these committees when there has been no liaison with these statutory bodies and the committee? The legislation states, and section 28 appears to make it mandatory, at least the way I read it: "No rules of procedure to govern the proceedings of the tribunal to which part I applies shall be made or approved except after consultation with the committee."

My point is this: If we don't even know all the tribunals, how do we know if they enact rules and procedures which even conform with what the legislation requests? In other words, I can sympathize with Mr. Callaghan that there is a real problem here in that we don't even know who the bodies are, and secondly, your resources are limited. How do we even know this whole setup is working? For instance, how do you know that some bodies have not enacted rules since 1971 that they were supposed to follow, that have been approved, and that you people don't even know about?

Mr. Callaghan: I find it difficult to answer the question because that is one of the basic problems we face. This summer we commenced compilation of an inventory of all tribunals. The problem with the statute is that if you read the definition of tribunal, it's a provincial statute but it covers all the municipal tribunals, all the municipal licensing boards, all the agencies that arrive at the municipal level, as well as everything at the provincial level. When we started out we realized it was going to be a problem, so we advertised in *Municipal World*, sent flyers to every municipality, and I think we advertised in the *Ontario Reports* indicating that we were in existence.

We have started to compile our inventory. Insofar as the legislative counsel's office is concerned, we have crossed with them to ensure that any regulatory body that brings in procedural rules that have to be implemented through the registrar of regulations will come to us. Beyond that, I don't know what else we can do.

We've tried to make our presence known. We are now consulted more often than we have been in the past. But it's extremely difficult. Everybody on that committee has another job to do. It's pretty hard to run the thing. I think we spend a lot of time on

it, in meetings and reviewing the rules. Various agencies have come to us and we initiate studies on our own. As the report sets out, we have studied a number of boards. We are now moving into a couple of more provincial boards, one of them the Energy Board.

[3:30]

Of course, immediately we go into a board there is resistance. People think we are in there to create problems. Really all we are trying to do is take their rules and procedures and show them how they can comply more easily with The Statutory Powers Procedure Act.

It has been rather difficult. Hopefully we have a little more money in the budget this year to cover it. Maybe we can retain some more outside help. The way the committee is structured under the legislation it makes it extremely difficult to discharge the mandate because it's so broad.

If the Act was limited to provincial tribunals it would be one thing, but unfortunately it isn't. It's extended to municipal boards as well as provincial boards, and that brings in a real plethora. I think we have compiled an inventory now well in excess of 200. We don't consider we are even a third of the way through compiling the inventory.

Mr. Roy: I'm not being critical of you personally or members of your committee. You have limited time and limited resources. But you see what bothers us is that the Premier of the province gets up in the House and states, and I quote: "While the committee will not make the rules for the individual tribunals, every tribunal will have to consult with the committee before introducing or amending its rules of procedure. In this way, the government may be assured that the principles adopted by the Legislature will be followed by all of the tribunals and agencies created by the government to carry out the processes of administration and thus ensure that the programme of individual protection will be maintained."

You know, that's the highly grandiose type of statement made by the government at the time. And then they don't give you the resources to carry out your mandate.

If you people haven't even had a chance to compile a list of all the tribunals that are supposed to report to you, you can imagine all those tribunals sitting all over the place that probably don't have a clue about this legislation, just carrying on as before, doing

what they have been doing in the past. Here we have a policy of the government enacted in 1971 which is not followed through with the proper resources.

So I'm saying let's not kid ourselves. If the government was serious about this type of policy statement when they were talking about this in 1971, by 1976 we should be in a position at least to say, "Hey, which tribunals are supposed to report to us?" We don't even know that. Secondly, we don't even know what sort of procedures and changes they have made in their rules since that time.

I think it's somewhat ridiculous and, in saying so, I'm not saying that to you. You are given a job to do and you are given limited resources to do it. But what I get excited about is when the Premier of the province, in this case, gets up and makes all these statements and then doesn't give the people resources to carry out the mandate that he's talked about in the House.

Mr. Callaghan: All I can tell you, Mr. Roy, is that we are still trying to put together the inventory. At the same time, as the report indicates, we have been consulted by a number of boards and agencies—the University of Toronto and various other ones—when they brought in rules changes.

The people on the tribunal really have worked quite hard. When you get a set of rules it's not the easiest thing in the world. I can remember going through the University of Toronto submission with reference to their procedures and it was a very difficult task to try and work out a functional set of rules for them.

We are approaching it from a different angle at this point in time. We are putting together a manual which we hope will have general application across the province to boards and tribunals by way of a guideline indicating our view on things. We thought that was one way of getting to some of these agencies that we haven't been able to get to. I'm hopeful we will have that out within the next 12 months. Again, it's people working part-time putting it together, but they are very capable people doing it.

I guess that's about all you can say on it. It certainly was an integral part of the Act of 1971 and we will just do our best on it.

Mr. Roy: Mr. Callaghan, again, I appreciate that you are placed in a very difficult position because you are the chairman and obviously you're not the one who is in a position to grab the Treasurer (Mr. McKeough) by the scruff of the neck and say to him, "Look it—"

Mr. Callaghan: I tried but I failed.

Mr. Roy: You have probably tried. The fact remains—for instance, I suspect the reason you got involved at the University of Toronto was there was a problem some time ago there when someone challenged the rules and procedures of the governing discipline structure. That is maybe the reason you got involved.

Let me go one step further and ask the Attorney General: Don't you feel that we have a point here, that it is somewhat ridiculous for the Premier to have made this statement about what is going to be the practice from now on under The Statutory Powers Procedure Act? We have this tribunal, he makes the statement and then we don't give the people the tools to carry out their mandate.

Surely, at this time there should be an undertaking given by you that these people at least will be given the necessary tools first to compile these tribunals. For instance, if you compiled a list or a little book about procedures, practice and rules—guidelines, sort of thing—you don't even know who to send them to; you don't even have your inventory set out. Surely, there should be someone full-time as soon as possible to sit down and find out where all these tribunals are. You would at least have the inventory and possibly that would be the first step in communicating with them and making them aware of the Act and possibly sending them your little booklet on rules and procedures.

I get concerned when I hear all sorts of statements made in the House about how great it is going to be. There is going to be a watchful eye on these tribunals and five years later, to all intents and purposes, the people who were given the job were not given the resources to carry out that mandate.

Hon. Mr. McMurtry: I agree basically with a number of things you have said. I think the rules committee has done an effective job, given the limited resources, and a number of administrative tribunals have benefited. There is no question that this is a matter which should be given some priority by the government when we face some of the very serious problems that we do with respect to court backlogs in some areas of the province, which you know all about. Again it is a question of balancing your resources—which are the highest of the high priorities? I agree with you.

Mr. Callaghan—and I think it is a credit to him—in preparing this annual report, which has been tabled, has outlined frankly the problems faced by the tribunal and the need for additional resources, the need for

a permanent secretariat. I can assure you that during the next year there will be renewed efforts to obtain specific funds for this area. During the last years, faced with the case-load crisis we have been faced with—I have to tell you that has been given the highest priority—as a result there hasn't been much left over for some of these other projects which are very important. Basically, I agree with your submission that this is a matter in which the public would benefit by some form of permanent secretariat where you could have, for example, first of all, a complete inventory of tribunals and go from there.

There really is no area of disagreement.

Mr. Roy: I appreciate you have been here for only a year but we were sitting in the House in 1971 when we heard the PR job that went with The Statutory Powers Procedure Act—this whole thing. We remember the PR and the grandiose statements and everything else. Without being overly political, it seems to me that this whole thing was a bit of a snow job because—

Hon. Mr. McMurtry: Well,—

Mr. Roy: Let me finish. Here you had the Premier and the then Minister of Justice—I think it was Allan Lawrence who brought this in; if I recall correctly among other things you brought in. He thinks the judge is pretty good too at that time. But anyway, he brought all this in with a big PR sort of exercise at which this government has been very effective in the past. Grandiose statements were made and then, for five years—it is not as though it was strictly under your responsibility but for five years after; we are talking about 1976 now—the resources were never given to carry out this mandate. I am left to conclude that that was a bit of a grandiose scheme which the government was more or less serious about. Resources are tough now, Mr. Attorney General, but in the good years, 1971-72, boy, money was being spent on all sorts of things. That is where we are starting to pay for certain weaknesses maybe of certain ministers who handled the Attorney General's department.

One of the things that I find odd, knowing the importance of this and at least the tacit importance that the government gave to this whole programme, is that they would put in Mr. Callaghan as the chairman. That is not fair in my opinion. Mr. Callaghan is the deputy minister; he has got all sorts of things to do. He has got all sorts of other priorities.

There appears to be all sorts of talent among the members of the committee—I don't know whether it is high-priced; maybe I shouldn't say that. Certainly we have heard of some of these people before—Mr. Leal, Hon. Mr. Justice Morden, D. K. Laidlaw. I don't know Mr. Risk—Professor Risk? And Mr. Reed, vice-chairman of the appeals, Workmen's Compensation Board. Anyway you have got all sorts of people, you have got all sorts of talent in the province, and surely after five years you would think that they would have some permanency in this where they would have decided at least to tabulate or have an inventory of the tribunals that are supposed to report to them. That is what I am excited about.

I don't want to be overly critical of you two people—of the deputy, who is the chairman and of the minister, who has only been around a year—but this is five years later. Basically what I am saying to you is that it appears to us that five years later, after having made this grandiose statement, that the dedication of the government to this whole project is very suspect.

Hon. Mr. McMurtry: I take very serious issue with the rather grandiose, hardly partisan statement.

Mr. Roy: I have the evidence on my side.

Hon. Mr. McMurtry: You really don't at all. The evidence goes very much on the other side. I have to say it is true I have only been a part of the government for a year.

First of all, I am aware, as is set out in this annual report, that the government of Ontario initiated a programme of law reform back in 1964 with the appointment of the then Hon. Mr. Justice McRuer. In the period since that time the progress made by this government in the whole area of civil rights, particularly as they relate to government action, I can tell you is probably the most forward legislation of any jurisdiction in the western world.

The Statutory Powers Procedure Act of 1971 provided basic substantive rights to the citizens of this province. This was followed up by the creation of the divisional court and whatnot and there has been really great progress made.

This is not to state that the activity of this rules committee is not important, but the putting of an overall structure in place by the passing of the legislation in 1971, the creation of divisional court as the proper appeal forum in relation to these tribunals,

has been a major advance so far as law and the rights afforded to the citizens under this legislation are concerned. To suggest that this statement by the Premier in 1971 amounted to a public relations statement with very little substance, I just have to say is nonsense.

Mr. Roy: Okay, let's look at my evidence. He makes the statement; he said, "every tribunal will have to consult with the committee before introducing or amending its rules of procedure." That is the statement he made at that time.

We passed a piece of legislation, section 28, which states: "No rules of procedure to govern the proceedings of a tribunal to which part I applies shall be made or approved except after consultation with the committee." How do you know there are not two or three hundred of these tribunals that have made wholesale changes in their procedures and you don't have a clue about it? How do we know that?

[3:45]

Hon. Mr. McMurtry: It is highly unlikely. But quite apart from that, I trust that you as a lawyer know that any citizen now has the right to go to court for relief against any arbitrary activity of any tribunal or body. The legislation is in place.

Mr. Roy: I am asking again, I am saying very simply, that you don't have any evidence that a wholesale number of these tribunals is not in fact breaking your law. We don't know. We don't even know who they are.

Hon. Mr. McMurtry: There is absolutely no evidence. You start from the premise that there are wholesale breaches of the law. I think you should have some evidence of that.

Mr. Roy: No. What I am saying is, how do you know that there is not? I am not saying that they are all insidious bodies who are trying to scheme ways of getting around the statute. All I am saying basically is that the Premier of this province made a statement in 1971 and we enacted certain laws. We don't even know which tribunals they are, or what changes they have made. You say, "Well, there is no evidence that this was a PR job." I will tell you the evidence in my opinion is overwhelming. If we were in front of a jury, even the Supreme Court of Canada, you would lose, probably 9-0.

I really think, Mr. Attorney General, in closing on this—and I don't want to appear to be going too hard against you because I really think I have got a case here—that there

should be dedication given to this. There should be serious consideration first of all in appointing a permanent secretariat right now, as soon as possible, to give certain meaning to the promises made by the Premier in 1971. That should be the first step. If, as Mr. Callaghan says, they are in the process of preparing a booklet on rules and procedures, they at least should have some idea of who they are going to send it to, and communicate with these tribunals and make them aware of section 28 of this statute. I really think we should receive a commitment from you that by the time we come back next year or we get the next report, that situation or what I consider to be the void or the vacuum that exists now in the legislation will have been filled.

Mr. Callaghan: I'd just like to say one thing. Insofar as provincial tribunals are concerned, we have no problem, because they are agents of this government, primarily most of them are aware of the Act and we feel we have consultation with them. It's at the municipal level that we feel we have a problem. The definition of tribunal in the statute is very broad—anybody with decision-making power; one or more persons—and when you get into the municipal level that can extend to a multitude of people exercising all sorts of functions in municipal government.

There are a number of things that maybe should be considered by way of remedy; namely, that it may be beyond the competence or capacity of any provincial tribunal to supervise not only all provincial tribunals but all municipal tribunals. Some thought maybe should be given to one tribunal to look after the municipal agencies and another one to look after the provincial agencies by way of rule-making. The other problem is the makeup. I don't know where the original idea came from to make the Deputy Attorney General the chairman. That was something that I inherited with the office, but it may be something that should be reconsidered.

If you look at section 28, there is absolutely enforcement procedure for that section. The statute doesn't provide for what happens if you don't comply with it. Of course, we have watched very closely, but we have not seen a case come up where anybody has taken the procedures required of any tribunal to court or to task for failure to consult. Those are soft spots that should be considered. I don't want to give the impression that we haven't done anything. I think we have done a fair bit.

Mr. Roy: You've done okay with the resources you have, maybe—I don't know—if everybody is on it part-time. What you are saying basically is that there is no statutory requirement that the deputy Attorney General be the chairman, first of all.

Mr. Callaghan: That happens to be the requirement by statute. Why it's there, I don't know.

Mr. Roy: There is? I hadn't realized the the legislation required that—

Mr. Callaghan: That's right. The legislation requires it so you would have to change that section of the statute. From my point of view, I certainly have no objection to that.

Mr. Roy: All I am saying is that in the scheme of things, in view especially of the projects on the table emanating from the Ministry of the Attorney General obviously, it's not as though when you wake up and shave in the morning, the first thing you think about is the Statutory Powers Procedure Rules Committee.

Mr. Callaghan: That's for sure.

Mr. Roy: There is a problem of time. The second thing is surely your municipal department should be able to tabulate all these various bodies. After all the municipalities are creatures of the province under The Municipal Act. All these tribunals have been created along the way and I would think that if you sent them a letter asking for all the tribunals within the municipality—

Mr. Callaghan: We've done that. There is no answer. You have to read the definition of tribunal. It really defies description because it means one or more persons. That could be any body, any single individual could constitute a tribunal, whether or not incorporated, however described, upon which a statutory power of decision is conferred.

That requires a total and complete review of every provincial statute, every power conferred on every bureaucrat or functionary under any provincial statute and searching out who that individual is in every municipality and finding out how he discharges his responsibility. If you examine that in the light of the possibilities of the number of people it could apply to, it is absolutely incredible.

This is one of the strengths, I guess, and one of the weaknesses of The Statutory Powers Procedure Act. It was drafted in general terms to ensure that the citizens got a fair shake when their rights were being affected.

In order to do that you had to use a blanket clause but when you try to apply a blanket clause to the specifics of the second part of the statute it becomes pretty difficult. Even with a secretariat of 10 people I don't think I could ever come here and say, "Yes, we've got every statutory power of decision indexed."

I don't think I would ever be able to do that or any chairman would, having regard to the way that is defined. Certainly we could use some help—there are some basic ones, licensing tribunals and things of that sort, which could be indexed for each municipality. When you get right down to the actual application to every person who has power of decision in this province, it becomes pretty impossible. That flows, I think, from the general nature of the statute itself.

Mr. Roy: That's why I was so concerned about all this. You get this definition of tribunal, which after all, emanated from the Ministry of the Attorney General, I take it?

Mr. Callaghan: No, it emanated from the McRuer report, really. If you go to that report, you will see that.

Mr. Roy: Somebody must have piloted this through the House, the minister or somebody?

Mr. Callaghan: No question.

Mr. Roy: So that—

Mr. Callaghan: As a matter of fact, I think everybody voted for it when it went through the House.

Mr. Roy: Sure we did, but you can't expect us poor little members sitting here—we don't even have research assistants—to be able to challenge it back in 1971, can you, Ken? Keith, I should say.

Mr. Acting Chairman: Ken was my opponent in the last election.

Mr. Roy: So you have this legislation that comes in, as you say, and what flows from this legislation is really grandiose. It would require a real staff. Five years later you've got the poor deputy Attorney General and his boys sitting on a part-time basis, trying to fulfil the requirements of the Act. Can you blame me for saying there was a bit of PR involved in this statement?

I really think there are two options. Either you amend the legislation to make it workable or you do something about this poor committee. You get some bodies on there and really give some effect to the whole purpose of this legislation and at least try to

substantiate to some degree, in 1977 or 1978, a statement made by the Premier in 1971.

Mr. Singer: I wanted to ask about the assessment review court. Do they have any jurisdiction over changing the voters list? I would think they do. Do they?

Hon. Mr. McMurtry: I don't think so, no.

Mr. Hilton: They certify the assessment rolls, that's all.

Mr. Singer: But the voters are on there, aren't they?

Mr. Hilton: Yes, that's right.

Mr. Singer: All right. And then in relation to what is happening in Toronto presently, with all the fuss about people being improperly there and several thousand being struck off in the last few days, does that not come under the jurisdiction of the assessment review court? Whose jurisdiction does it come under? What is the procedure to correct it? The new procedure is that the assessors make up the voters list and part of the voters list is the roll.

Mr. Hilton: That comes under The Municipal Elections Act surely. It's not the responsibility of this Act.

Mr. Singer: I wonder the extent, if at all, of the assessment review court—if they can check the whole roll or parts of it.

Mr. Hilton: I think the limits of the assessment review court are statutory limits that are given to them under sections 44 and 52 of The Assessment Act—5(16), 5(47)—

Mr. Singer: I know them all well, but I want to know if the assessment review court can do anything about the terrible mess in the municipal voters list.

Mr. Hilton: None of that will cover the situation—

Mr. Singer: Maybe we send a message through your jurisdiction over to the assessment review court that there should be a better system at least in Metropolitan Toronto, of getting these lists ready. Because unfortunately they are very bad and it hurts the quality of the election that's about to be held. It has to, if the roll is that bad.

Mr. Lawlor: The Act itself contains a fairly good code of impartiality and rule of law. My only comment about it—and I am not unduly chagrined—is that you haven't been able to form a complete inventory. But it's

one thing, it seems to me, to check the rules of various tribunals against the Act and another thing, which I trust you are not trying to do, is to set up a uniformity of rules.

Mr. Callaghan: There is no way you can do that.

Mr. Lawlor: No way you can do that.

Mr. Callaghan: One of the things we have been very cognizant of is that having regard to the responsibility of each tribunal there is just no possibility of having what you could call a uniform set of rules applicable to all tribunals, because their responsibilities and duties are entirely different.

Mr. Lawlor: Precisely.

Mr. Callaghan: What we try to do is achieve within the context of that tribunal's responsibility a compliance with the rules.

Mr. Lawlor: That's sensible. You should get started reviewing them in the provincial field while the others begin to flow in. As I was just listening to the matter it struck me very strongly that the rules that apply to an assessment court, over against the criminal injuries, over against the Ontario Municipal Board would be quite diverse and different with respect to the rules of evidence, what is acceptable and what is not. Okay.

Just on this assessment review court, perhaps you could clue me in. There has been a monumental increase of the case load in this area in the past few years.

Just briefly, in 1970, taking the Metropolitan Toronto regions, there were 63,000 appeals. In 1971, 60,000. In 1972, 60,000. In 1973, 24,800. Then it jumps. In 1974, it goes to 15,000 and now in the year 1975 it is up to 57,500. Would you give us the basis? Accordingly the sittings are not that much greater; I mean they have been doubled in one year. What is the background for all that?

[4:00]

Mr. Hilton: The background is the change in the basis of assessment to the market value and the lifting of the freeze which was on.

Mr. Lawlor: You mean the freeze on assessment?

Mr. Hilton: Yes.

Mr. Lawlor: My understanding was that the switch to market value is in limbo.

Mr. Hilton: It is being proclaimed. It is in limbo as far as Toronto is concerned. Of course, it has been brought in in the county of Grey, excepting Owen Sound; Muskoka, Parry Sound, the town of Wasaga Beach and more recently, this year, it has been enlarged to include Parry Sound and West Carleton.

Mr. Lawlor: In West Carleton? The sittings for the central region, the Georgian Bay-Lake Huron region, in 1974 were 208 and they went down in 1975 to 140.

Mr. Hilton: The number of appeals increased by 7,000. They heard more cases per sitting.

Mr. Lawlor: In other words, they are sitting much longer hours?

Mr. Hilton: That is correct and they are sitting more days, too.

Mr. Lawlor: Fine. That is all I want on that. What is the complement there? The complement a couple of years ago was 149 active members. It seems that the complement has gone down.

Mr. Hilton: It has. There has been a change of emphasis. By reason of these legislative changes and the educational programme it has been found that it is more efficient and is giving a better equity across the board if fewer people are used and are better trained.

Mr. Callaghan: There are 105 part-time active members and a full-time chairman, a full-time vice-chairman and part-time vice-chairman.

Mr. Lawlor: You were using an optical character recognition on the appeal information; is that operative?

Mr. Callaghan: Yes, it has been fully implemented.

Mr. Lawlor: Okay.

Mr. Callaghan: It's very successful, too.

Mr. Roy: Mr. Chairman, if I might ask a few questions on this vote—on the Criminal Injuries Compensation Board, I take it the amount of money we are talking about, \$1.276 million, doesn't include the awards, does it? That is just the administration of it, is it?

Mr. Hilton: That includes the awards.

Mr. Roy: I wonder if you could tell me whether, as a matter of policy—the limitation period in the Act, I think, is a year, isn't it?

Mr. Hilton: Yes.

Mr. Roy: It is a year but it is flexible, is it not? There is a discretion because I take it you are getting busier all the time. There is an increase in population and so on. Are you in a position to say whether the board is often called upon to exercise its discretion to allow compensation or awards even though the claim is made after the one year?

Mr. Hilton: It is often enough that they have a special form prepared. When a person comes in to the desk and starts talking to them about a matter beyond the limitation period, they have a prepared form and they say, "Okay, go back and fill this out." The person sets out the reason for the delay—lack of knowledge or—lack of knowledge is not in itself generally found satisfactory but sometimes there are positive reasons. I can think of one just lately in which there had been a misunderstanding that they had to wait for the determination of the criminal offence. It was a series of rapes, a gang thing, and there had been appeals and retrials and appeals coming up, some of them up for the third time. It was over a long period and it was a misunderstanding. I don't actually know what the decision was in that case but I know they were greatly concerned.

Mr. Roy: The reason I ask is that I have run across some situations in which the victim in some circumstances or in all circumstances will have his civil rights, his civil remedy but the problem in not following the civil remedy often is that the perpetrator of the crime may not be around or available or it might be you are trying to get blood out of a rock. If a guy is serving five years in jail, your chances of enforcing—

Mr. Hilton: At least you know where to find him to serve him.

Mr. Roy: Yes, you know where to find him but the chances of succeeding in the enforcement of the judgement—There are other circumstances in which it is a 50-50 proposition as to whether one should sue the perpetrator of the crime. To give you an example, there is the situation of a husband and wife who have been separated. The husband attacks the wife and breaks an arm or something. There is a civil remedy but the alternative is the Criminal Injuries Compensation Board.

If one pursues the civil remedy and the husband takes off or something along that line it may well be that the year is over and

they are looking to the Criminal Injuries Compensation Board. I think there should be some encouragement, if there is a civil remedy, to try that rather than turn to the Criminal Injuries Compensation Board.

What I am suggesting is that I am hoping the board is flexible, given the circumstances, on the limitation period. I say flexible in the sense that if one pursues a civil remedy and is successful in getting a judgement but unsuccessful in enforcing it because the husband quits his job or something and goes on welfare can one then turn to the Criminal Injuries Compensation Board? I would hope that would be so.

What I wanted to know basically is, has the board determined that after two years or after three years or something along that line, you can't come back?

Mr. Hilton: I beg your pardon?

Mr. Roy: I am wondering whether there is a policy within the board that if one has pursued the civil remedy one is precluded from turning to the board; or, secondly, if they have a policy whereby if it is after two years or three years or whatever you are too late.

Mr. Hilton: The Act specifically states that no action you take before the board precludes or interferes with your civil rights. Therefore, if I was being consulted as a lawyer in private practice, I certainly wouldn't advise a client to wait; looking at the Act, you would bring your action. The board also has a right of subrogation to proceed against the person, in the same way as an insurance company has a subrogated right under a policy.

Mr. Roy: I see; or like OHIP does on civil actions.

Mr. Hilton: It is only to the extent of the payment, of course. In other words, they couldn't pay somebody a lower fee and make money on it.

Mr. Roy: I would hope not. I see. I had one further question on the assessment review court. Do you recall the assessment—

Mr. Lawlor: May I ask a question on criminal injuries?

Mr. Roy: Sure; go ahead.

Mr. Lawlor: There is a large cumulative overhanging case load beginning to build up in that board—794 cases pending as against 542 for the previous year. Is the board adequately staffed?

Mr. Hilton: Do you mean the assessment review board?

Mr. Lawlor: Yes.

Mr. Hilton: Yes, the board feels it is adequately staffed.

Mr. Lawlor: No, criminal injuries.

Mr. Hilton: The criminal injuries list is growing more. The board is taking some steps to assist as the previous chairman, as a matter of practice, used investigatory personnel, who prepare the cases for them, in the position of court clerks and registrars to say, "Oyez, oyez, everybody stand up." That isn't done any more. Those people are used for the purposes they are hired for—investigating. A lot of the backlog and delay is in the investigation.

So far as the hearings are concerned, they are now implementing those sections of the Act which allow one person to hear a case and report. If the claimants challenge that they have the right of appeal to a panel of two, if they don't like the decision. That had not been the practice under the previous chairman and there is hope that these two administrative changes, Mr. Lawlor, will chew into that—they may not—but it is hoped and we are going to try.

Mr. Lawlor: One further comment on this board. I am particularly taken with the way in which compensation is granted. The Attorney General and his staff, with respect to rule changes particularly in the civil courts, might take into consideration adopting some of the practices, working them into the system as it presently stands, certainly to a greater extent than they presently are.

It's just not a question of lump sum payments. The interim awards, the supplementary award feature and the periodic payment feature, particularly, are extremely valuable. I think it would keep the costs of civil actions down. In other words if a judge rules that the payments will be made on an annuity basis, a periodic basis of some kind and so on, the condition of the victim emerges and appears over the years.

The lump sum situation either gives too much or too little to individuals in various situations. The recognition of extended payment over periods of time, depending upon condition, is a notable advance in the tribunal system which the courts could take more into cognizance. That's all I wish to say about that.

Mr. Singer's committee—here we're sitting talking about period payments rather than lump sums and how much more sensible that is in most situations.

Mr. Singer: I hope actually our committee is going to recommend that. Certainly it's something that we have before us. I think it's a good idea.

Mr. Lawlor: Taking that together with interim awards, too.

Mr. Singer: Yes.

Mr. Callaghan: How does the defendant protect himself in those situations? Just as a matter of interest, I think it's—

Mr. Singer: I don't know that we've spelled it out but it makes a little better sense to me that rather than anticipate how long somebody is going to live and multiply that by whatever, you say, "It's going to cost so much a year." We're talking about insurance companies, by and large.

Let the insurance companies set up a reserve but in the meantime let's not put the money in court and let's not deal with the ultimate extreme. Perhaps the person will live 50 years longer than the tables indicate or 50 years less than the tables indicate. It seems to me a realistic way of dealing with what have been these fantastic awards which don't serve any useful purpose.

Mr. Callaghan: Except to bankrupt some individuals.

Mr. Singer: Yes. It's got to go in line with some other things we've been thinking about, too. Hopefully, we're going to get somewhere closer to unlimited insurance. I don't think \$100,000 is enough and hopefully we can get that far. If we can do that, get unlimited and compulsory, then you can—

Mr. Hilton: Then who can afford it?

Mr. Singer: I think there are statistics, and our research people are digging them out, which hopefully will help us establish that when you move from beyond \$50,000 up to a million dollars or even unlimited, you're not talking about very much in risk factor.

Mr. Lawlor: That's right; it's marginal.

Mr. Singer: The biggest bulk of claims is under \$5,000.

Mr. Hilton: I think we all know that when we pay our insurance for added coverage it costs us very little, but it's a very broad topic.

Mr. Singer: They have it in the UK and all through the Continent.

Mr. Lawlor: Anyhow, one final question; on pain and suffering, have they some kind of criteria? How do they do that?

Mr. Hilton: Generally, they've been assisted by Bob Rutherford, who is a lawyer and now a Supreme Court judge and was part-time vice-chairman. Previous to that they had a retired county court judge assisting in this area. It's a question of assessment in the same way that assessment is carried out in any court by any judge. It's pretty difficult but, by and large, I think you will find that their awards are under the awards. In other words, it's not an effort, as it is in a court, to try to make perfect and full compensation, it is an assistance.

[4:15]

Mr. Lawlor: You're perfectly right. I do notice that the awards are under for pain and suffering, as I believe they should be, by and large. Still it's a figure plucked out of the air to an enormous extent. The fact that you have a county court judge and so on, whose pain and suffering is probably greater than most other people's, I suppose, gives them an inside track in assessing these nebulous damages.

Mr. Hilton: Having practised in the damage field for so many years I've been continually impressed with the general intelligence of juries and common men in arriving at consistent figures which one who works in that area can generally count on in assisting in settlements. You get the odd one who goes crazy but most of them are surprisingly good.

Mr. Singer: I want to talk about the Municipal Board. Are we about ready for that?

Mr. Chairman: Yes, we're considering the—

Mr. Lawlor: I want to talk for a moment about the land compensation vote. I don't want to say very much. I simply want to quote, winding up these estimates as far as I'm concerned, from scripture. I want to quote from I Kings, chapter 21:

"And it came to pass after these things, that Naboth the Jezreelite had a vineyard, which was in Jezreel, hard by the palace of Ahab, king of Samaria. And Ahab spake unto Naboth, saying, 'Give me thy vineyard, that I may have it for a garden of herbs, because it is near my house: and I will give thee for it a better vineyard than it; or, if it seem good to thee, I will give thee the worth of it in money.'

"And Naboth said to Ahab, 'The Lord forbid it me, that I should give the inheritance of my fathers unto thee.' And Ahab came into his house heavy and displeased because of the word which Naboth the Jezreelite had spoken to him: for he had said, 'I will not give thee the inheritance of my fathers.'

"And he laid him down upon his bed and turned away his face and would eat no bread.

"Jezebel his wife said unto him, 'Dost thou now govern the kingdom of Israel? Arise, and eat bread, and let thine heart be merry: I will give thee the vineyard of Naboth the Jezreelite.' So she wrote letters in Ahab's name, and sealed them with his seal, and sent the letters unto the elders and to the nobles that were in his city, dwelling with Naboth." [I'm jumping.]

"And there came in two men, children of Belial and sat before him; and the men of Belial witnessed against him, even against Naboth, in the presence of the people, saying, Naboth did blaspheme God and the king. They then carried him forth out of the city, and stoned him with stones, that he died. Then they sent to Jezebel, saying, 'Naboth is stoned, and is dead'."

At which particular point Ahab rejoiced very greatly in his newfound vineyard. And that's the law of expropriations. God bless us.

Mr. Hilton: I think that is an expression—a lot of people look at The Expropriations Act as being the essence of where expropriation arises. It's in many statutes but it's not in this. This is a procedural statute only.

Mr. Singer: The Municipal Board, can we do it now? I think it takes an unconscionable length of time to get on for a hearing with the Municipal Board. Formalities are such, their calendar is such that to get on for a hearing is frustrating because of the length of time it takes. I don't know what can be done about that—perhaps the procedures can be simplified a bit; perhaps more people should be put on the board.

Certainly I would like to see the Attorney General and the deputy sit down with Mr. Shub and discuss what I think, and I'm sure Mr. Shub realizes, is a very real problem. The delay is almost intolerable in many cases. We were talking about the ability to develop land and so much of our land development is now, unfortunately, being determined by reference to the Municipal Board that these procedures have to be speeded up.

Do you want to talk about that?

Hon. Mr. McMurtry: We were just commenting on your suggestions, Mr. Singer,

and thinking perhaps it would be a good time to have a review of the procedures and rules governing the Ontario Municipal Board.

This may not be a large factor but the present chairman believes that, unfortunately, a lot of time is wasted and lost when people file objections and never appear. I've instructed him, for example, to change the regulations to request a larger fee for filing objection, which will be returned to the objector regardless of the result unless it's shown that it was utterly frivolous. Unfortunately, there have been a lot of board members attending out of town, only to find that nobody shows up.

Mr. Singer: Nobody shows up, I know that.

Hon. Mr. McMurtry: They have paid \$10—I don't think you have to pay anything, do you, if you're a ratepayer—or nothing at all.

Mr. Singer: There's a power to award costs which is very seldom used.

Hon. Mr. McMurtry: It's seldom used. A lot of people, as I say, don't have to post any security. We don't want to make it a large amount but just enough to avoid the frivolous activities of some who just never appear. As I say, on the basis if they appear—

Mr. Singer: The wording in The Ontario Municipal Board Act is very broad insofar as cost is concerned. I was able to get them on one occasion when they'd taken us on to appeal and then came in on the day of the hearing and said, "We've changed our minds." I made quite an argument and the board accepted it but the order was so unusual the board wasn't sure how it should be made and who should do it and the methods and so on. It's a very unusual procedure but it can be used and perhaps some regulations as to how it should be used—

Mr. Lawlor: May I interject? In the last three years—no, four years—I have succeeded twice in obtaining rather good costs when representing community groups before that board. It was Kennedy in both instances.

Mr. Singer: Yes, Kennedy would take it upon himself to fix an amount. The board I hit on in this particular incident wasn't quite sure what they should do after having awarded it or who should tax them. I think they threw it at the county court clerk of the judicial district of York and he didn't have the faintest idea what he should do with it and we had great arguments.

Counsel then appeared on the other side and objected violently to what I was doing

and went on to appeal and so on. We got the money eventually but it might be quite useful to lay down some regulations about this and perhaps indicate to Mr. Shub that that power can be used and should be used where it is appropriate.

That's point No. 1. The second point is the whole role of the OMB. Is the OMB an independent body or is it an extension of ministerial discretion? To what extent is the OMB an impartial tribunal? Is it an impartial tribunal to the extent that the courts are?

If it is impartial, or even if it is not, what usefulness does the filing of reports by various government departments play in its decisions? I think this varies from board member to board member.

There was one board member who was chairing a particular hearing in which I was interested, who said, "I don't really care what the ministry has said in the letter. If the ministry feels it very strongly, it will send somebody here from that department who will give evidence and submit himself to cross-examination. Don't tell me what is written in a letter which may or may not be valid."

I think that makes some good sense because often when you go before the Municipal Board, you are fighting a shadow. You are fighting somebody who has written something on a piece of paper. You don't know if he really was the author or the basis on which it was made. I've had the impression on occasion that this is fixed in the minds of the particular panel. It is very unfair for someone who is arguing against a piece of paper not to have its author before the board to cross-examine. Do you have any views on that one?

Hon. Mr. McMurtry: Yes, I think the point is very well taken. The board, as I understand it—I've never really practised before the board to this past year—is that it acts as an independent judicial body. It is not independent in the same way as the courts because I gather they do take into consideration what overall government policy is in certain areas, not to frustrate government policy.

As to where the dividing line is on any particular case, I'm not so sure that I can really respond adequately to that.

Mr. Singer: It is a very basic question because Kennedy, when he was there, argued strenuously against security of tenure for members of the board. He felt he was an extension of the government and that he should make no decision—he and I talked about this; he and I are good friends and we've talked on many occasions about this—he

felt he should not make any decision which would be embarrassing or contrary to government policy as he interpreted it. We've got to be very subjective as to what he thought was government policy. He also felt that if he got to that position the government should be free to discharge him without cause.

It's really a very basic question. There are two questions there. One is are they an independent tribunal or are they a reflection of the ministry? The second point that follows from that is if they are a reflection of the ministry to what extent do they listen?

There was a day when I first came here, or even before I came here, when I used to practise before them as well, when one had to have the impression that somebody whispered in their ear. You weren't dealing with a case that appeared in evidence. There was no access to the files and no access to the reports; you were arguing about something and suddenly a member of the tribunal would say, "What about so and so?" Counsel would sort of wonder where that fact came up. It never came in evidence.

It is much improved now. The files are there and access to them is available but it still differs from tribunal member to tribunal member as to the way in which these letters and this correspondence is treated. I would think it would make very good sense—certainly the ministry should have opinions about these things but if they are going to have an opinion and feel it's worth the serving, they should send somebody to the hearing and subject themselves to cross-examination.

Mr. Good: On that point, if I may, Mr. Chairman, the thing is I have some concern in the present annexation of lands to the city of Barrie, where both sides fear the outcome one way or another. The Treasurer (Mr. McKeough) had gone on record by letters to the OMB, the municipality of Barrie, which was doing the annexation, and the townships surrounding it, which were being annexed, stating that in general principle he approved the annexation.

Right away the townships feel their case is lost. They say, the minister approves this before he has heard the evidence. Of course the Treasurer argues that he approves the annexation but the extent of the annexation is a matter under consideration by the OMB. I think Mr. Singer's point is well taken, that when these bodies just send letters to the OMB without appearing, you are fighting a shadow. The conservation authorities do it all the time. They send in a letter stating "this is our position." Maybe an undue amount of influence is carried by these phantom

letters rather than the facts and appearances before the board.

Hon. Mr. McMurtry: I think the point is a good one, and I will certainly pursue it. I don't know how or why the decision was made to place it under our ministry because obviously no policy emanating from our ministry would directly affect the deliberations of the board. Obviously there are other policy considerations, overall policy and planning considerations of the government, which it has to consider. I agree with you that this policy should be a public record.

Mr. Singer: Yes.

Hon. Mr. McMurtry: I think it's fundamental. Our whole judicial or quasi-judicial system is based on the right of each party to a proceeding to know what he or she has to meet in any particular case. That is fundamental to our justice system, both criminal and civil.

[4:30]

Mr. Singer: Perhaps to make it a bit more specific I could tell you about one point at issue in a recent hearing. I knew there were comments both by the ministry and by the municipality and we'd gone on to appeal the municipality's refusal to amend the official plan as we would like them to have done, about odours in a particular area emanating from certain industrial uses. We had prepared a somewhat elaborate case in answer to this objection and I started to lose the case after the municipality had finished and the chairman said, "I don't know why you are bothering. Nobody has introduced that in evidence and I am not the least bit concerned about what they wrote in the letter." So I stopped. I got the signal immediately and stopped.

On the other hand, I know there are other panel members who could have gone in quite the opposite direction. The consistency of it, I think, is very important. One should know what kind of a case one has to meet. I am pleased, with you, that it is a judicial type of department so that lawyers who have to deal with this can talk to lawyers about the concerns.

Hon. Mr. McMurtry: Yes, I think the principal concern of the government in relation to overall policy probably has been in relation to fiscal matters, municipal bond issues and what not. I think this is something we should try to clarify. Certainly it makes a lot of sense to me as somebody who, as I say, is not intimately involved nor ever has

been with the operation of the board except for what I have been able to learn during the past year.

Mr. Singer: Well, again on—do you want to say something?

Mr. Callaghan: It was just that the policy statements of the ministry should be set out clearly and published. That was a recommendation some time ago. The procedures of the board—

Mr. Singer: It really isn't policy for the ministry to say "You should have a factory over there and houses over there." The government isn't going to rise or fall on what particular use is for a particular piece of land. It's an argument. Municipal council may feel it's important to go one way and the developer or whoever may want to go another way and the residents might say "We don't want anything there." It is a question of opinion the board often hears this kind of dispute and should deal with it on the basis of the evidence before it.

I don't know how much ministerial policy really is involved because a clerk in the department of planning or a planner has written a report saying "In my opinion it shouldn't happen." That then becomes gospel and you never get to see the person who wrote that recommendation. It makes it very difficult to argue against if you have to face that.

Hon. Mr. McMurtry: I couldn't agree with you more, as to the unfairness of that.

Mr. Singer: There are a couple of other points I wanted to make. I have a couple of other points on the Municipal Board I want to make here first. There is the difficulty that I have experienced again recently in getting formal orders drawn. It is not as it is in court when you get the reasons for judgement handed down. Successful counsel prepares a draft order, takes it to the registrar and the formal order is approved or changed and signed and entered.

It gets quite difficult now because the drafting of the formal order, after the reasons are written and delivered, has to go—the approval of the draft has to go back to the members of the panel. The members of the panel could be in Toronto one day and in Timmins the next day or Windsor. By the time they get back to Toronto and have a free half day or a few hours to sit down and consider it, it might be many weeks after their reasons have been delivered. Again there is a substantial delay in the opportunity

for counsel to discuss it with the person who is going to formalize the order.

Following from that, I ran into a most unfortunate one when a mistake had been made by the board in transcribing the formal order. They said schedule A instead of schedule B. It was a rather important mistake not in words but in significance because the schedules were long and complicated. To get that changed—everybody admitted it was wrong—I had to go back to everyone who was interested in the original argument, the people who were opposed to our views and so on, and people who were not interested really in replying, and ask for their consent to the amendment. When I had six or eight consents gathered in, they all had to go back to the board and again, we had to wait until the original panel came back. That took an extra five months—because some typist had written schedule A instead of schedule B. It's terribly frustrating.

I would hope that there is—there must be—a simpler way of doing these things. Perhaps there should be a legally trained secretary for the whole board or someone like that who could take on this responsibility as the registrar of the courts does.

Hon. Mr. McMurtry: It's a good suggestion and we'll take it up with the board forthwith, Mr. Singer.

Mr. Singer: In another incident—I don't know what you can do about this one but again, it's indicative of the frustration—I was advised by the solicitor for a municipal council that they had decided to appeal a particular decision made by the board. I went back to the Act and refreshed my memory.

The appeal period from the board to the cabinet is 28 days and that hasn't been changed. This is several months after the deed. Counsel wanted to know if I would consent to the appeal. I got in touch with his office and said how could I consent to something the statute barred?

The reply was he knew it was statute barred and he told the council it was statute barred but they passed a resolution that the appeal be made. That was frustrating and again expensive and again delaying.

I have been thinking about this in the last few weeks and I suspect that the major reason for it is a delaying tactic. We have now made an appeal of the board's decision to the cabinet or we are about to—so we can't deal with the application. We can't deal with the board's order. Everyone knows full well that the time for appeal has expired speci-

fically and the person who gets penalized is the original applicant or the person who had the order in his favour.

As I say, I don't know what you can do about that except, if and when it does appear before the cabinet, throw it out quickly. I don't know if it is possible to penalize that municipal council by costs or whether that's desirable. Again, it's very frustrating.

Mr. Hilton: When that comes up, that goes immediately to the legislation committee and the advice is then put forward that this was statute barred. There is no power to enlarge that, Mr. Singer.

Mr. Singer: I appreciate there is no power to enlarge it. I appreciate that full well. But what aggravates me is the fact that while the council is going through the motions of doing something that is statute barred, the whole planning procedure grinds to a halt. They do it contrary to the advice of their own solicitor. They instruct him to go ahead with an appeal. They refuse in the meantime to deal with the application and what flows from the decision because it's under appeal.

Mr. Hilton: If I was on the other side, Mr. Singer, I would recommend a mandamus—that the building order or whatever should issue because there was no jurisdiction for appeal. The appeal or apparent appeal is not based on the law.

Mr. Singer: Yes, I have been contemplating that.

Mr. Hilton: No charge.

Mr. Singer: It's very frustrating. I think you people have a responsibility to the board to get in and be firm and impose—

Mr. Hilton: Right.

Mr. Singer:—strict rules and regulations governing such conduct.

Mr. Hilton: You can't stop anybody launching an appeal in a court of appeal either, even if it is statute barred.

Mr. Singer: No, I know. But municipal councils should know better. They have their own solicitor who advises them; he's a competent man. They should believe in him and should take his advice.

Mr. Hilton: Quite.

Mr. Singer: He advises but they say, "It doesn't matter what you say. We are going to appeal anyway."

Hon. Mr. McMurtry: I think that is certainly something in which the ministry could be helpful. When there is an obvious abuse of the process, draw it to our attention.

Mr. Singer: I will.

Mr. Lawlor: The Municipal Board has been publishing reports, which is fairly recent, and that procedure does give some kind of uniformity to what was otherwise a chaotic and haphazard handing down of judgements.

I do take some issue with the board—if a municipality, not just a preponderance but the overwhelming number of the members of the council of that municipality take a stand with respect to their own community, I take some umbrage with the Municipal Board's usurpations. It is non-elected people overriding the will of the locality, not in monetary matters which was the prime job of the board but with respect to zoning matters of all kinds.

Under Kennedy it was sensitive to a wide range of local opinion. Of course those would be remembered as the popular 1960s, when wide participation by citizens' groups and so on was a fairly new thing, in a sense, in the world, in a way which was altogether beneficial if democracy is to go on.

After he left, the board became far more restrictive. It tightened up tremendously and delegated to itself an independence vis-à-vis the municipalities and almost, in my opinion, took on a dictatorial role in this particular respect. A question arises out of this: What is the position, what is the treatment accorded to municipal groups before that board today?

Hon. Mr. McMurtry: What is their standing?

Mr. Lawlor: How are they treated? How are they received? Are they recognized? Where do they fit in on the evidence?

Hon. Mr. McMurtry: Of course, they are recognized. They have full standing. I remind you that under the chairmanship of Mr. Kennedy—actually I guess, the chairman was a dissenting vote—he was prepared to overrule Metropolitan Toronto in relation to the extension of the Spadina expressway, a matter Mr. Singer demonstrated some interest in. His dissent was certainly very celebrated at the time and obviously had some weight with the provincial cabinet.

That is just an illustration of the other side of the fence when Mr. Kennedy felt that in certain circumstances he was quite prepared to overrule the metropolitan gov-

ernment of this community, of this area. Of course, the issue you have raised is one which has been raised from time immemorial, I guess, in relation to the jurisdiction of the Municipal Board and that is its right to interfere with local autonomy and the decisions of the local representatives. I realize that this is a matter which has been of some controversy and will be as long as it has that jurisdiction. I must confess that I feel it is a jurisdiction which should be used cautiously and sparingly, but is a jurisdiction which should still be in the board.

Mr. Lawlor: In a way it seems to be the last of the family compact, the principle of John Hamilton. It is an aristocratic principle that a group of people who are appointed in this particular way have deeper insights and somehow act as a governing or supervising force with greater wisdom than that which emanates from someone else.

Hon. Mr. McMurtry: It is usually the citizens in the community who initiate a number of the appeals against decisions taken by their representatives. I don't have any figures but a great number of these appeals, as you know, are initiated by the citizens of the same community which you say has given a mandate to its local representatives which I don't quarrel with. That is one of the anomalies of our system.

Mr. Singer: Mr. Lawlor's inquiries have not been dealt with, but my experience has indicated that they are listened to very carefully except that Kennedy and others were not prepared to listen to 10 people making the same point. They would recognize people represented by counsel first, with the obvious suggestion that, grouped together, they have a single spokesman and then they would leave the individual objector till the last. It made some sense and still does, otherwise the hearings will be interminable. There is a case to be made certainly to listen to it once, not 10 different times.

[4:45]

Mr. Lawlor: I quite agree with that. It's just that very often groups are not in a position to hire a lawyer and do come as a group before the board. Under Kennedy they were given the widest ambit for presentation of their case, usually some non-legal spokesman. The board has become somewhat more constrictive and set up barriers with respect to people who had legal qualifications, etc. Their privacy in their role there, puts everybody else in the shade, and that was a policy of the board.

There isn't much crying about it, just as there isn't more crying from the universities about the internal operations there any more, either; but that doesn't mean there oughtn't to be.

Another thing I wanted discussed is the appeal to the cabinet. It's a very strange creature; the only animal I know of that kind. Here is a quasi-judicial proceeding; it then becomes—you can argue both ways—a highly political procedure—

Mr. Singer: Mr. Chairman, I suggest you call Mr. Lawlor to order. The appeal to the cabinet is not in this vote. The OMB is but not the appeal procedure from the OMB.

Mr. Acting Chairman: Having given everyone on the committee the widest possible latitude I'm about to extend it to the chairman.

Hon. Mr. McMurtry: Yes, I don't think there is anything contained in the estimates for time spent by the cabinet on these appeals.

Mr. Lawlor: It's no loss, of course, I just think it could be. It's within the rules and procedures of the Municipal Board, its mode of operation. It's what everybody has in the back of their mind, I believe, but there you are. All right, Mr. Singer blows hot and cold on these matters.

Mr. Gregory: I have one point following along the line of Mr. Singer's comments and that is my concern over some of the frivolous objections. Of course Mr. Lawlor has touched on this as well—his concern that in his opinion sometimes the Municipal Board doesn't pay the strictest attention to a local council's decision. I have found that although the local council is elected by the majority of the people, they don't necessarily, in every case, reflect the opinion of the majority of the people on a specific application.

In many cases local councils are motivated by the passion of the moment, I suppose, or a particular interest group which either lives around it or has some reason—for example, they love trees and don't want a tree cut down, which I class as a frivolous application.

I get very disturbed in many cases at a time when we do need housing. It has to be a high priority in this province; there are people who haven't got a place to live. In many cases plans of subdivision even though they comply with an official plan, do not at that time have the proper zoning. The application is for rezoning but the

people don't understand. Unfortunately, a somewhat reactionary councillor doesn't necessarily explain it to the people very clearly so they understand what is being done and why.

Local councillors could be faulted themselves for not making clear to the people what the planning process is all about. I think it is a known fact that anyone who lives on an 80-foot lot is going to fight like hell to prevent someone moving in next door on a 50-foot lot and so on down the line. Anyone who lives in a single family home is going to object to a semi-detached house being built next to him.

It seems to me there's a very important function of the Municipal Board in that they do tend to look objectively at a case. Their decisions are not made on an emotional basis; they are made purely on the basis of law and with common sense, I would hope.

Mr. Lawlor: I would dispute that.

Mr. Gregory: Well, I knew you would, Pat, but that's just a personal opinion.

Having said that, I do have a concern the other way around: I do think that there could be some provision made on the Municipal Board for a little better knowledge of the local scene. When you are dealing with something that's very important to the citizens of any community, because it is their community, it might be improved if the persons who are hearing the case at the Municipal Board level, whether it's one, or three people or whatever, knew a little bit more geographically about the community of which they are talking.

In many cases, somebody will make an application to the Municipal Board, and the municipality will object on the basis of their knowledge of the community—and there's a certain amount of good sense to their objection; it's not a frivolous objection—but the people who are hearing the case have never seen the community. They may live in Scarborough or somewhere like that and the application might be in Oakville or Mississauga. Their decisions are made, probably rightly so, on the basis of law without taking into consideration the community concerns. I'd feel a lot better if they made their decision according to law having some knowledge of the community concerns on a personal basis.

I know of one member who was appointed to the Municipal Board from Mississauga and he wasn't allowed to sit on any cases pertaining to Mississauga. I think he has been there two years and he still hasn't been allowed to. Maybe there's a reason for that,

but it seems to me there should be some working knowledge of a community before you can make a totally objective decision, rather than deciding subjectively in favour of the law only, without having a personal knowledge of it.

I don't know if that's a question. If you can make a question out of that, I'd like to hear your comments.

Hon. Mr. McMurtry: In other words, should the board not be encouraged to inform itself to a better extent of the community? In certain cases it might be of interest, I suppose, to actually visit the area that's going to be directly affected. It's the age-old problem, I guess, of a quasi-judicial body seeking out evidence on its own, as opposed to what's presented to it in the hearing. But, as I say, I think this is something we should take into consideration, Mr. Gregory, and we will, with respect to just considering what further review should be undertaken in relation to the rules and procedures of the Municipal Board.

Mr. Lawlor: Of course, the board has the right to take a view.

Hon. Mr. McMurtry: Yes.

Mr. Gregory: I'm sorry. I missed that.

Hon. Mr. McMurtry: The board has the right to take a view. In other words, they can go and see it.

Mr. Gregory: If I can go back to the first part of my question, my concern is about what I consider to be frivolous objections. I suppose I'm taking an opposing view to the position Mr. Lawlor has taken. My main

concern is production of housing, and it seems to me that we tend to bend over backwards to make sure that everybody has their say—and it doesn't matter if their objection happens to be based solely on the fact that they don't want something next to them; that seems to be the main objection today. Say somebody admires an oak tree that happens to sit on property that somebody else owns; despite that fact, they don't want that oak tree cut down to provide housing for anybody at that location.

We waste a lot of time and money, and the only guy who pays for that is the fellow who buys the house eventually. We can kid ourselves that the dirty old developer is going to pay it anyway, but that isn't the case. In addition to wasting a lot of time and money, we give an awful lot of people ammunition for saying we're not producing houses fast enough. One of the very good reasons is these frivolous objections.

Hon. Mr. McMurtry: Thank you, Mr. Gregory.

Mr. Acting Chairman: Any more comments on this item?

Items 1 to 5 agreed to.

Vote 1207 agreed to.

Mr. Chairman: This concludes the estimates of the Ministry of Attorney General.

Hon. Mr. McMurtry: I am very grateful for the arrival, even at the last moment, of Mr. Bullbrook, and the fact that my first estimates, which I hope won't be my last, weren't completed without his presence.

The committee adjourned at 4:55 p.m.

CONTENTS

Tuesday, November 9, 1976

Administrative tribunals programme	S-2971
Assessment review court	S-2977
Criminal Injuries Compensation Board	S-2978
Land Compensation Board	S-2980
Ontario Municipal Board	S-2981
Adjournment	S-2987

SPEAKERS IN THIS ISSUE

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 Gregory, M. E. C. (Mississauga East PC)
 Lawlor, P. D. (Lakeshore NDP)
 McMurtry, Hon. R.; Attorney General (Eglinton PC)
 Norton, K.; Acting Chairman (Kingston and the Islands PC)
 Roy, A. J. (Ottawa East L)
 Singer, V. M. (Wilson Heights L)

Ministry of the Attorney General officials taking part:
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